



House of Commons  
Committee on Standards

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# Sanctions in respect of the conduct of Members

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**Seventh Report of Session 2019–21**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
to be printed 14 July 2020*

## Committee on Standards

The Committee on Standards is appointed by the House of Commons to oversee the work of the Parliamentary Commissioner for Standards, except in relation to the conduct of individual cases under the Independent Complaints and Grievance Scheme; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members' Financial Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in the Code of Conduct which have been drawn to the Committee's attention by the Commissioner; and to recommend any modifications to the Code of Conduct as may from time to time appear to be necessary.

### Current membership

[Chris Bryant MP](#) (*Labour, Rhondda*) (Chair)

[Mrs Tammy Banks](#) (*Lay member*)

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### Powers

The constitution and powers of the Committee are set out in Standing Order No.149. In particular, the Committee has power to order the attendance of any Member of Parliament before the Committee and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of the Commissioner, be laid before the Committee. The Committee has power to refuse to allow its public proceedings to be broadcast. The Law Officers, if they are Members of Parliament, may attend and take part in the Committee's proceedings, but may not vote.

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### **Committee staff**

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You can follow the Committee on Twitter using [@HoCStandards](https://twitter.com/HoCStandards).



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# Introduction

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1. This Report arises from an inquiry started by our predecessor Committee in the last Parliament into the system of sanctions for breaches of the Code of Conduct for Members of Parliament. There is currently a range of sanctions that may be imposed on Members who are found to have breached the rules. These include oral or written apologies, withholding of salary, suspension from the service of the House for a specified period, and expulsion.<sup>1</sup>

2. Our predecessors' inquiry was launched in order to tackle a number of issues which have developed in recent years:

- The perceived inadequacies of the current sanctions regime, in particular the argument that there is a “sanctions gap” with no sanction available that is more severe than an apology but less severe than a suspension.
- The need for greater clarity about why particular sanctions have been imposed in particular cases.
- The need for an expanded suite of sanctions suitable for dealing with not only the kind of cases relating to failure to register or declare interests, breaches of the ban on paid advocacy, and misuse of House facilities; but also with cases of bullying, harassment and sexual misconduct by Members under the Independent Complaints and Grievance Scheme (ICGS) introduced by the House in 2018.
- The need for a regime which creates greater incentives for co-operation with the investigatory process.

3. The inquiry was launched in May 2019 with an invitation to interested parties to submit comments on proposals put forward in a letter to the Committee's then Chair by the Parliamentary Commissioner for Standards. Annexed to the letter was a table setting out a possible expanded range of sanctions. We publish the Commissioner's letter and the accompanying table as Appendix 1 to this Report.

4. The Committee took oral evidence from representatives of trade unions and the media, as well as written evidence, before the inquiry was suspended as a result of the Dissolution of Parliament in November 2019. When the Committee was reconstituted in March 2020 it decided to resume the inquiry. Since then we have taken written evidence from the Clerk of the House as well as from the Scottish Parliament, Senedd Cymru/the Welsh Parliament, the Northern Ireland Assembly, the Committee on Standards in Public Life and the Independent Parliamentary Standards Authority. We have received questionnaire responses from a range of overseas bodies including the European Parliament and the United States Congress.<sup>2</sup> We have conducted informal consultations within Parliament, including with the Parliamentary Commissioner for Standards and her team. We are grateful to everyone who assisted us in the inquiry.

5. We are conscious that following the House's decision on 23 June 2020 to set up an Independent Expert Panel, we no longer have responsibility for dealing with ICGS cases. We

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1 Some of the documents we quote from in this Report, notably the Independent Complaints and Grievance Programme Delivery Report (July 2018), refer to “remedies” and “penalties” as well as “sanctions”. For ease of reference we use the term “sanctions” throughout.

2 In total we received 40 responses via various parliamentary networks, including the European Centre for Parliamentary Research and Documentation (ECPRD).

nonetheless discuss, and make recommendations on, ICGS sanctions relating to Members in this Report. This is because the issue formed an intrinsic part of the inquiry. It is also important that both the Commissioner and, when it is set up, the Panel should have a full range of suitable sanctions available to them as soon as possible. It is desirable that the House's standards system remains, as far as achievable, a holistic one, with discrepancies between parts of the system kept to a minimum. This Report therefore invites the House to approve a new sanctions regime that will apply to both ICGS and non-ICGS cases.

6. It will, however, be open to the Independent Expert Panel in the light of experience, if it chooses, to propose to the House changes to the sanctioning system insofar as it applies to ICGS cases for which the Panel is responsible. We deal with matters relating to the ICGS in more detail in a later section of this Report.

7. This Report should be considered in the context of the Committee's other continuing work and the evolving system of enforcing and promoting parliamentary standards. In 2017 the Committee commenced a major review of the Code of Conduct, building on previous work by the then Parliamentary Commissioner. This work was interrupted by two general elections, two changes of Committee Chair and a change of Commissioner, as well as by the new arrangements for dealing with bullying, harassment and sexual misconduct cases introduced by the House in the wake of the #MeToo scandal in 2017, including the ICGS and the creation of a Parliamentary Behaviour Code separate from (though endorsed by) the House of Commons Code of Conduct.

8. We are mindful that several sets of rules apply across politics and public life, including the House of Commons Code of Conduct, the Parliamentary Behaviour Code and the Ministerial Code, each of which is separately adjudicated. Other relevant regulatory bodies include the Independent Parliamentary Standards Authority (IPSA), which regulates MPs' salaries and support, the Advisory Committee on Business Appointments (ACOBA), which gives advice to those leaving the public sector including ministers (but not MPs) about subsequent conflicts of interest, and the Committee on Standards in Public Life (CSPL). There is a danger that this complexity causes confusion for the public, for parliamentary staff and for MPs, and that confusion undermines confidence in the whole system.

9. We will shortly announce plans to relaunch the Committee's review of the Code of Conduct, in which we will seek to address these issues. **This Report on sanctions, and our continuing review of the Code of Conduct, reflect our over-riding objectives: to promote simplicity, transparency and clarity, to ensure consistency between different codes, and to build a better shared understanding of the attitudes and behaviour the House wishes to promote.**

## The present system of sanctions in non-ICGS cases

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10. The House of Commons has long-established rights, recognised by the courts, to discipline its own Members. These include the right to suspend a Member from the service of the House for a specified period, and in the last resort to expel a Member. This has evolved considerably over the centuries. The House's repeated expulsions of John Wilkes for publishing a record of its proceedings in the mid-eighteenth century, and of Charles Bradlaugh for insisting on affirming rather than swearing the oath in the nineteenth century, would rightly be considered undemocratic and unjust today. However, *Erskine May's Parliamentary Practice* is clear that the penal jurisdiction of the House encompasses the power "to punish Members and non-Members for disorderly and disrespectful acts".<sup>3</sup>

11. The House's current system for dealing with misconduct by Members derives largely from the recommendations of the Committee on Standards in Public Life (CSPL), set up by the Government following the "cash for questions" scandal in the early 1990s. On the recommendation of the CSPL, the House in 1995 introduced a Code of Conduct for Members of Parliament and created the post of an independent Parliamentary Commissioner for Standards. The Commissioner was empowered by Standing Order "to receive and, if he thinks fit, investigate specific complaints from Members and from members of the public in respect of (i) the registration or declaration of interests, or (ii) other aspects of the propriety of a Member's conduct, and to report to the Committee on Standards and Privileges".<sup>4</sup> The existing Select Committee on Members' Interests and Committee of Privileges were merged to become a new Committee on Standards and Privileges, which continued in existence until 2012, when it was replaced by a separate Committee on Standards and Committee of Privileges, albeit with the same elected members on each committee.<sup>5</sup>

12. With regard to sanctions, the CSPL accepted and assumed the existing power of the House to suspend its Members (including withholding salary), but did not make recommendations to expand the range of sanctions beyond an apology:

More severe penalties, involving suspension and possible loss of salary (in practice the equivalent of a fine) would continue to require the authority of the whole House.<sup>6</sup>

13. Although a few new sanctions have been introduced, as outlined later, this is broadly speaking the sanctioning system that is still in force today. The Commissioner has certain powers under the standing orders to 'rectify' matters where a breach of the rules has occurred. Although the process of rectification is not intended as a formal reprimand, the Commissioner can, without further reference to the House, invite a Member to acknowledge the breach of the rules, rectify the infringement, apologise and move on.

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3 [25th edition \(2019\), para 11.19](#); for Wilkes and Bradlaugh see para 11.33.

4 [CJ \(1994–1995\), 555](#)

5 References in this Report to the past practice of "the Committee" may therefore refer, depending on context, either to the Committee on Standards and Privileges (1995 to 2012) or the Committee on Standards (2012 onwards). The reason for the split into two committees in 2012 was to permit the appointment of lay members to the Committee on Standards, it being considered inappropriate for lay members to deal with matters of privilege.

6 [Committee on Standards in Public Life, First Report \(1995\)](#), Cm 2850–1

In more serious cases the Commissioner refers the matter to the Committee, which has the power to impose a limited number of sanctions: in particular, either a requirement to apologise in person, or in writing, or to pay back money. In the most serious cases, the Committee can then invite the House to impose a sanction, including the possibility of suspension or expulsion. We describe below the Commissioner's rectification powers, and then each sanction currently available for the Committee on Standards to impose or recommend, in ascending order of severity. We also publish, as Appendix 2 to this Report, a table listing sanctions recommended in individual standards cases since 1995.<sup>7</sup>

14. The description of sanctions in this section of our Report relates to those currently available in non-ICGS cases; we deal with the background to sanctions in ICGS cases in a separate section (paras 60 to 73 below), and conclude the Report with proposals for new sanctions in both ICGS and non-ICGS cases (paras 88 to 121 below).

### Rectification by the Commissioner

15. When the Commissioner decides that there is sufficient evidence to justify them investigating a complaint against a Member of Parliament in a non-ICGS case, and that it is within their remit to do so,<sup>8</sup> there are several possible outcomes to their ensuing inquiry. They may conclude that there has been no breach of the rules of the House, in which case that is the end of the matter. If they conclude that the rules have been breached, but the breach is relatively minor, they may use their powers under the standing orders to 'rectify' the matter without further reference to the Committee on Standards.<sup>9</sup> 'Rectification' takes place with the consent of the Member concerned, and requires the Member to acknowledge their breach of the rules, apologise and take appropriate action to put the matter right, for example, by a repayment for misused resources, by registering an interest which had been omitted from the Register, or by making an apology to the House for not declaring a relevant interest during proceedings. When an inquiry is concluded in this way, the outcome is published on the parliamentary website on the Commissioner's webpages. The reason for the decision and the evidence associated with it are also published. The Committee on Standards is informed of the outcome.

16. In other non-ICGS cases where the Commissioner concludes the rules have been breached, they will submit a memorandum to the Committee giving the reasons for their conclusion, accompanied by the evidence they have taken in the inquiry. It is then for the Committee to consider the Commissioner's findings and decide what, if any, sanction is appropriate. The Commissioner makes no recommendation as to sanction, although they may indicate how serious or otherwise they consider the breach to have been, and draw to the Committee's attention matters they consider relevant to its decision on a sanction.

17. The majority of cases referred by the Commissioner to the Committee are ones where the Commissioner has concluded there has been a serious breach of the rules. However, it should be noted that because rectification requires the consent of the Member concerned, any case where the Member disputes the Commissioner's finding, even if the alleged breach is relatively minor, must be referred to the Committee. In addition, the Commissioner

<sup>7</sup> For convenience the table also lists sanctions recommended in privileges cases.

<sup>8</sup> The boundaries of the Commissioner's remit are set out in [The Code of Conduct and Guide to the Rules 2019 \(Session 2017–19, HC 1882\)](#), ch. 4, paras 21–23.

<sup>9</sup> For rectification, see Standing Order No. 150 (4), and Parliamentary Commissioner for Standards, *Annual Report 2018–19* (Session 2017–19, HC 2559), published 25 July 2019, para 37.

may refer cases because they seek the guidance of the Committee on the interpretation of the rules, because the offence has been repeated, or because for some other reason they wish a case to receive the Committee's consideration.

## Sanctions imposed by the Committee

### *Publication of Report but no further action*

18. It is open to the Committee to recommend that no further action be taken in a case, even where they conclude that the rules have been breached. The Committee publishes a report on each case that it considers. The issuing of such a report, drawing public attention to the fact that a Member has breached the rules, in itself constitutes a sanction. Such an outcome may be appropriate where the breach in itself is relatively minor, if there are significant mitigating factors, and if the Member concerned has already apologised to the Commissioner and the Committee.<sup>10</sup>

### *Apology required by the Committee*

19. The sanction most commonly imposed by the Committee has been a requirement to apologise. There are different forms of apology, reflecting different degrees of seriousness of the breach of the rules. As has been seen, the Commissioner's rectification procedures can invite a Member to apologise. Where cases reach the Committee, the Member may have previously apologised to the Commissioner, and they may apologise to the Committee as part of the written evidence they submit. In some cases the Committee may deem these apologies sufficient. They may also require a Member to apologise to the House by way of a letter to the Committee, or to apologise in the Chamber on a point of order or through a personal statement. The text of a personal statement has to be agreed with the Speaker, and the Committee may require the text of any other form of apology to be agreed with its Chair. The Committee would always expect an apology to be unequivocal, but on occasion it has expressly specified that a Member should apologise "unequivocally".<sup>11</sup> The Committee may also require a Member to apologise to an injured party, or to the Commissioner and their staff. Examples of all these forms of apology are given in the list at Appendix 2.

20. As our predecessor Committee commented in 2015:

At the lowest level, the Committee's sanctions will affect an MP's reputation. The fact a written apology has been required will be a matter of public record. Apologies on the floor of the House by personal statement must normally be made immediately after Question Time, when the House is full, and the matter prominent. MPs who apologise in form alone can be strongly criticised, and may face political consequences.<sup>12</sup>

<sup>10</sup> For a recent example where the Committee recommended no further action, see [Committee on Standards, Second Report of Session 2019–21, Stephen Pound \(HC 209\)](#). For an earlier example, see [Committee on Standards, Fifth Report of Session 2014–15, Mr Peter Lilley \(HC 951\)](#).

<sup>11</sup> [Committee on Standards and Privileges, Fifth Report of Session 2009–10, Mr Brian Binley \(HC 238\)](#), published 11 January 2010, para 35

<sup>12</sup> [Committee on Standards, Sixth Report of Session 2014–15, The Standards System in the House of Commons \(HC 383\)](#), published 10 February 2015, para 152

21. On one occasion the Committee has taken further action against a Member who was considered to have made an inadequate apology. The Committee issued a second report recommending that the Member should make a full apology in a personal statement to the House by a specified date, failing which the House should suspend him until such time as he agreed to do so.<sup>13</sup> The Member subsequently apologised in the unequivocal form required by the Committee.<sup>14</sup>

### ***Repayment required by the Committee***

22. Paragraph 16 of the Code of Conduct states that “Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their parliamentary duties. It should not confer any undue personal or financial benefit on themselves or anyone else, or confer undue advantage on a political organisation.”

23. Where public money has been wrongly claimed or services have been wrongly used by a Member in breach of this provision of the Code, whether intentionally or otherwise, the Committee may require the Member to repay some or all of that money or the cost incurred. Repayment has been required by the Committee on Standards, and its predecessor the Committee on Standards and Privileges, on 28 occasions since 1995.<sup>15</sup> The sums involved have ranged from £285 to £28,000.<sup>16</sup>

24. The majority of these repayments were enforced by the Committee on Standards and Privileges before May 2010, when complaints about the misuse of the scheme for parliamentary expenses were transferred to the newly created Independent Parliamentary Standards Authority (IPSA). However, in recent years the Committee has still occasionally required repayment, for instance of the costs of parliamentary stationery when used without authorisation.

25. In addition, the Guide to the Rules states that “if [IPSA] or its Compliance Officer consider that a Member’s conduct justifies it, they shall refer that Member, with the relevant evidence, to the Commissioner for him or her to decide whether to inquire into a potential breach of the Code of Conduct and its associated rules”.<sup>17</sup> No such referral by IPSA to the Commissioner has yet been made.

### ***Miscellaneous sanctions imposed by the Committee***

26. The Committee has other sanctions at its disposal.

27. Where a Member has breached the Code by failing to register a financial interest, the Committee can instruct that the Register entry, when made, is put in bold italic type for a set period (usually a year), to draw additional attention to it. In addition to this being

13 [Committee on Standards and Privileges, Fifth Report of Session 2004–05, Conduct of Mr Jonathan Sayeed: Further Report \(HC 473\)](#)

14 HC Deb, 23 March 2005, vol 432, col 893

15 See Appendix 2.

16 For a larger sum effectively “repaid” by withholding a Member’s resettlement grant, see paragraph 52 below.

17 [The Code of Conduct and Guide to the Rules 2019 \(Session 2017–19, HC 1882\)](#), Guide introduction, para 15

a sanction (insofar as it draws public attention to a breach of the Code), it is useful in that it serves to show that a late registration has been investigated, and so avoids fresh complaints about something that has been dealt with.

28. Although the Committee has at present no formal powers to require a Member to attend training, on one recent occasion it required a Member who had repeatedly failed to register interests within the necessary timescale to meet with the Registrar of Members' Financial Interests "to receive a full briefing from her about his obligations as a Member to register all relevant interests in accordance with the rules".<sup>18</sup> On another occasion a Member was ordered to consult with the Commissioner in person, within 21 days of the publication of the report, about the registration of all payments received.<sup>19</sup>

### **Compliance with the Committee's requirements**

29. In both the cases referred to in the previous paragraph, the Committee indicated that it might take further action if the Member's response to its recommendations proved unsatisfactory. In the first case, the Committee stated that if the Member were to commit any further breaches of the rules on registration, they would regard this as a matter that might call for more serious sanction.<sup>20</sup> In the second case, the Committee stated that it would monitor the Member's compliance and take further action if need be.<sup>21</sup> We have previously referred to a case where, when the Committee regarded a Member's apology as unsatisfactory, it issued a further report warning the Member that he was at risk of suspension.<sup>22</sup> As that case indicates, the Committee's ability to escalate a matter to the floor of the House, and to recommend to the House a serious penalty such as suspension, underpins its ability to secure compliance with the sanctions it imposes through its own authority, delegated from the House under standing orders.

### **Sanctions imposed by the House following recommendation from the Committee**

30. The House has a number of historic powers to penalise its own Members which have not been exercised in recent years. These are the power of formal admonishment or reprimand (last used in 1968),<sup>23</sup> the power to fine (last used in 1666)<sup>24</sup> and the power

18 [Committee on Standards, Seventh Report of Session 2017–19, Boris Johnson: Further Report \(HC 2113\)](#), published 8 April 2019, para 15

19 [Committee on Standards, Fourth Report of Session 2013–14, Nadine Dorries \(HC 806\)](#), published 11 November 2013, para 32

20 [Committee on Standards, Seventh Report of Session 2017–19, Boris Johnson: Further Report \(HC 2113\)](#), para 15

21 [Committee on Standards, Fourth Report of Session 2013–14, Nadine Dorries \(HC 806\)](#), published 11 November 2013, para 32

22 See para 19 above.

23 *Erskine May*, 24th ed. (2011), p 197; the 1968 case was that of Mr Tam Dalyell: [CJ \(1967–68\) 362](#). Members are admonished standing in their places.

24 [Joint Committee on Parliamentary Privilege, First Report of Session 1998–99, Parliamentary Privilege \(HL 43-I / HC 214-I\)](#), para 272. It is worth bearing in mind, however, that suspension of a Member effectively incurs a fine in that the Member is deprived of their pay.

to imprison (last used in 1880).<sup>25</sup> The power to fine is widely regarded as having lapsed,<sup>26</sup> and the power to imprison is widely regarded as having become effectively unenforceable owing to its incompatibility with the European Convention on Human Rights.<sup>27</sup>

31. The Committee on Standards, and its predecessor the Committee on Standards and Privileges, have considered the following sanctions to exceed their own sanctioning powers and to require the authority of the House: (1) suspension from the service of the House for a specified period (which involves also loss of salary, and since 2015 may trigger recall proceedings); (2) expulsion; (3) withholding of salary without suspension; and (4) withholding of resettlement grant. We describe each of these sanctions in turn in the following paragraphs, but note that the only ones which the Committee has actually asked the House to impose are suspension and (on one occasion) the withholding of the resettlement grant.

### *Suspension (and possible recall)*

32. The right of the House to suspend a Member from its service is an ancient one.<sup>28</sup> Since 1995 the Committee on Standards and Privileges, and its successor the Committee on Standards, have on 15 occasions recommended that the House suspend a Member, for periods ranging between five days and 12 months.<sup>29</sup> The House agreed to the Committee's recommendation on every occasion that this was put to it; but on one occasion (where the recommended suspension was for 12 months), the Member concerned stood down as an MP<sup>30</sup> after publication of the Committee's Report, before a motion could be put before the House.<sup>31</sup> On two other occasions the full term of suspension was not served, in one case because the Member stood down as an MP immediately after he had been suspended for six months,<sup>32</sup> and in the other because the Member chose not to contest his seat in the general election which was called shortly after he had been suspended, also for six months.<sup>33</sup>

33. The effect of suspension is that a Member may not take part in proceedings (attending sittings of the House or its committees, voting in divisions, tabling questions, motions or amendments). They cannot enter the parliamentary precincts (which comprise the whole parliamentary estate, not just the Palace of Westminster), or take part in select committee meetings inside or outside the precincts. They may not receive papers relating

25 Against Charles Bradlaugh: [CJ \(1880\) 235](#)

26 See [Joint Committee on Parliamentary Privilege, First Report of Session 1998–99, Parliamentary Privilege \(HL 43-I / HC 214-I\)](#), published 30 March 1999, para 272. It might, however, be noted that the power to suspend a Member was not exercised between 1692 and 1877, but was revived under Speaker Brand in the latter year and has been used frequently since.

27 See [Joint Committee on Parliamentary Privilege, First Report of Session 1998–99, Parliamentary Privilege \(HL 43-I / HC 214-I\)](#), para 284.

28 [Erskine May, 25th ed., para 11.31](#)

29 See Appendix 2. The breakdown is as follows: 5 days (1 case), 7 days (2 cases), 7 sitting days (1 case), 10 sitting days (1 case), 2 weeks (2 cases), 18 sitting days (1 case), 1 month (3 cases), 30 days (1 case), 6 months (2 cases), 12 months (1 case).

30 That is, they employed the parliamentary device used to vacate a seat, by applying for "an office of profit under the Crown" (Stewardship of the Chiltern Hundreds or the Manor of Northstead): see [Erskine May, 25th ed., para 3.22](#).

31 See [Committee on Standards and Privileges, First Report of Session 2012–13, Mr Denis MacShane \(HC 635\)](#), published on 2 November 2012.

32 See Committee on Standards, [Eleventh Report of Session 2013–14, Patrick Mercer \(HC 1225\)](#), published on 1 May 2014.

33 See [Committee on Standards, First Report of Session 2019, Keith Vaz \(HC 93\)](#), published on 28 October 2019.

to committee decision-making (e.g. agendas, draft reports), though they may be sent committee background papers. They will also continue to have email access but may not use this to initiate proceedings.

34. Standing Order No. 45A provides that “[t]he salary of a Member suspended from the service of the House shall be withheld for the duration of his suspension”. The salary withdrawn includes pension contributions, together with any supplementary payment the Member may receive as a select committee chair or a member of the Panel of Chairs. The decision does not affect the payment of salaries to the Member’s staff or of expenses relating to constituency work (because the intention is, as far as possible, not to disadvantage staff or constituents). The salary is withheld by IPSA. Under the Parliamentary Standards Act 2009, IPSA’s statutory duty to pay a salary to a Member is “subject to anything done in relation to the member in the exercise of the disciplinary powers of the House of Commons”.<sup>34</sup>

35. Under the Recall of MPs Act 2015 a Member suspended from the service of the House for at least 10 sitting days or for a period of at least 14 days, where sitting days are not specified, following on from a report from the Committee on Standards in relation to the Member, becomes liable to the recall petition process. In such cases the seat is vacated if at least 10 per cent of those on the Electoral Register of the constituency concerned sign a recall petition. The former Member is not prohibited from standing at the subsequent by-election.

36. Since the introduction of this legislation, the recall process has been triggered following a Committee on Standards report on one occasion.<sup>35</sup> The House approved the Committee’s recommendation that a Member be suspended for 30 sitting days.<sup>36</sup> A recall petition was opened in the Member’s constituency, but fewer than 10 per cent of those on the Electoral Register signed it and the seat was therefore not vacated. In another case, the House approved the Committee’s recommendation that a Member be suspended for six months, but the November 2019 Dissolution of Parliament took place shortly after the suspension was imposed and the provisions of the Act were not triggered.<sup>37</sup>

## Expulsion

37. The most severe sanction the House can impose on one of its own Members is expulsion. The last Member expelled for a disciplinary offence was Mr Garry Allighan, Member for Gravesend, in 1947.<sup>38</sup> The Committee of Privileges had found Mr Allighan guilty of an aggravated contempt, in that he had made unfounded charges against other

34 [Parliamentary Standards Act 2009, s 4\(7\)](#)

35 Other ‘triggers’ or conditions for a recall petition under section 1 of the Act are a custodial prison sentence of a year or less (longer sentences automatically lead to a seat being vacated under the Representation of the People Act 1981) and a conviction for providing false or misleading parliamentary expenses claims. In addition to the unsuccessful recall petition relating to Ian Paisley in North Antrim which we discuss in this paragraph, two other MPs have been subject to a recall process, both in 2019: Chris Davies in Brecon and Radnorshire (expenses conviction) and Fiona Onasanya in Peterborough (prison sentence). In both cases the recall petition was successful: Chris Davies contested the subsequent by-election and was defeated; Fiona Onasanya did not contest the by-election.

36 See [Committee on Standards, Third Report of Session 2017–19, Ian Paisley \(HC 1397\)](#), published on 18 July 2018.

37 See [Committee on Standards, First Report of Session 2019, Keith Vaz \(HC 93\)](#), published on 28 October 2019. The House suspended Mr Vaz for six months on 31 October; Parliament was dissolved on 6 November. Mr Vaz subsequently decided not to contest his former seat at the general election.

38 The last Member expelled was Peter Baker in 1954, after receiving a custodial sentence of seven years following a conviction for forgery: [CJ \(1954–55\)](#) 6 and 24–25.

Members, misled the Committee, attempted to cast suspicion on others and given evidence it was unable to accept. The Committee made no recommendation as to sanction. The Government tabled a motion to suspend for Allighan for six months, but an amendment substituting expulsion was carried on division.<sup>39</sup>

38. In the debate on this case, the Leader of the House, Herbert Morrison, set out arguments for suspending rather than expelling:

Expulsion is a very serious step. It could be a step open to very great abuse. For example, it would be exceedingly grave if the House expelled a Member because it thoroughly disliked him; either because it did not like his character or a number of things he had done. Once that was started, we could all make lists that might reach a considerable number before we had finished. If we were to abuse this power of expulsion it could become an instrument of danger to the House itself.<sup>40</sup>

39. Neither the Committee on Standards nor the Committee on Standards and Privileges has ever recommended expulsion. In one case where the latter Committee recommended a 12-month suspension, it explained why it preferred this sanction to expulsion, despite the seriousness of the case (which later led to the Member's imprisonment after criminal charges were brought against him):

Expulsion [is] an extreme punishment, and the choice of the electorate should be overturned very rarely. In the event of a lengthy suspension, while the Member would not be able to serve the constituency in the House he would still be able to serve constituents through surgeries, and communications with Ministers. The Committee should only recommend expulsion if it were confident that its judgement would be shared by the House.<sup>41</sup>

40. The Committee on Standards expressed similar views in 2014, echoing Herbert Morrison 60 years earlier:

There is a danger that the power of expulsion could be used to remove people because their opinions were unpopular, rather than because of misconduct. Members are elected, and the decision of the electorate should be respected.<sup>42</sup>

41. Notwithstanding these reservations about expulsion, the Committee on Standards, in its 2015 Report on *The standards system in the House of Commons*, commented that the two recent cases in which a Member had resigned by "taking the Chiltern Hundreds"<sup>43</sup> were *de facto* expulsions. The Committee added:

If the MP concerned wished to defend his or her reputation, expulsion would not be a final judgement: it would in theory be possible for the individual to

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39 Report from the Committee of Privileges, Session 1946–47 (HC 138), para 11; discussed in [Committee on Standards and Privileges, First Report of Session 2012–13, Mr Denis MacShane \(HC 635\)](#), paras 60–61

40 [HC Deb, 30 October 1947](#), col 1160

41 [Committee on Standards and Privileges, Second Report of Session 2012–13, Mr Denis MacShane \(HC 635\)](#), para 59.

42 Committee on Standards, [Eleventh Report of Session 2013–14, Patrick Mercer \(HC 1225\)](#), para 28

43 See Para 32 above, footnote 30.

appeal to the constituency by standing in the subsequent by-election, and the constituency would be free to return him or her. The voters would have the last say.<sup>44</sup>

### *Withholding of salary*

42. As noted in paragraph 31 above, suspension of a Member is automatically accompanied by the withholding of their salary during the period of suspension. Other ways of imposing a financial penalty upon a Member, as an alternative to suspension, have been discussed over the years. The 1999 Joint Committee on Parliamentary Privilege considered this in some detail.<sup>45</sup> It commented that the House's historic right to fine had not been used since 1666, had been called into question by the courts in the eighteenth century, and "should be regarded as lapsed".<sup>46</sup> The Joint Committee observed that:

To some outside Parliament the absence of a power for the Commons to fine its members might seem surprising. The imposition of a financial penalty is commonplace as a disciplinary sanction. For example, the power to impose a fine as a disciplinary measure exists in several leading professional bodies. The House of Commons already has power to impose one form of financial penalty: loss of salary for the period of suspension [of a Member] [ ... ].<sup>47</sup>

43. The Joint Committee concluded that "empowering the House to impose a financial penalty when suspension is undesirable, or is inadequate (for instance, as a Parliament draws to an end), would be, in principle, a modest and sensible addition to the range of disciplinary powers available to the House". The Joint Committee therefore recommended "that the House of Commons should have power to fine members". It added that "[w]e expect the occasions calling for the exercise of the power to fine [ ... ] will be few and far between". It also made clear that it did not support a revival of the House's historic power to imprison Members.<sup>48</sup>

44. The Committee on Standards in Public Life (CSPL), in the context of a review of MPs' conduct published in 2002, supported the Joint Committee's proposal. The CSPL recommended that "[t]he House should take steps to introduce additional financial penalties without suspension as a sanction for breach of the Code of Conduct".<sup>49</sup> The Standards and Privileges Committee in 2003 endorsed this recommendation:

The House should have an additional power, on a recommendation from this Committee, to impose a separate penalty of withholding salary for a specified period on a Member found to have breached the Code. If legislation is required, we look to the Government to introduce it.<sup>50</sup>

44 [Committee on Standards, Sixth Report of Session 2014–15, The Standards System in the House of Commons \(HC 383\)](#), para 154.

45 The subsequent 2013 Joint Committee on Parliamentary Privilege considered only the House's penal powers in respect of non-Members.

46 [Joint Committee on Parliamentary Privilege, First Report of Session 1998–99, Parliamentary Privilege \(HL 43-I / HC 214-I\)](#), para 272

47 *Ibid.*, para 277

48 *Ibid.*, paras 276–79

49 [Committee on Standards in Public Life, Eighth Report, Standards of Conduct in the House of Commons \(2002\) \(CM 5663\)](#), para 6.41

50 [Committee on Standards and Privileges, Second Report of Session 2002–03, Eighth Report of the Committee on Standards in Public Life: "Standards of Conduct in the House of Commons" \(HC 403\)](#), para 50

The Committee commented that a key advantage of this proposal was that it “would mean that a financial penalty could be imposed without depriving constituents of representation”.<sup>51</sup>

45. On 23 June 2003 the House debated a government motion to approve the proposal from the Committee and the CSPL. Introducing the debate, the then Leader of the House, Mr Peter Hain, addressed the question raised by the Committee as to whether legislation was required:

The legal advice obtained confirms that legislation is not necessary: the House has the power to withhold salary, and does so when Members are suspended. I understand that the Committee accepts that advice. Nevertheless, it is right that the House should be given the opportunity to affirm that it is content for this to be done in appropriate cases. It would seem very reasonable that the House should be able to impose this sanction—in very rare cases, I would hope—while allowing the Member to conduct his or her parliamentary business on behalf of his or her constituents.<sup>52</sup>

46. The House resolved without division “that, in appropriate cases, the House should impose a penalty of withholding a Member’s salary for a specified period without suspending the Member.”<sup>53</sup>

47. The resolution from 2003 remains in force, but the penalty it authorises, that of withholding salary without suspension, has not so far been imposed.

### ***Withholding of resettlement grant or “loss of office” grant***

48. In a 2009 report on Members’ expenses and allowances, the CSPL recommended that “where an MP is found to have seriously abused the expenses system or otherwise seriously breached the Code of Conduct, the Standards and Privileges Committee should always consider recommending that the House reduce or remove the resettlement grant from that MP as part of any sanctions to be imposed and should be prepared to do this for past as well as for future breaches of the rules”.<sup>54</sup>

49. At the time CSPL published their report, a resettlement grant was payable to any Member who ceased to be an MP at a general election. The amount was based on age and length of service, and varied between 50% and 100% of the annual salary payable to a Member of Parliament at the time of the Dissolution.

50. Responding to the CSPL’s report, the Committee on Standards and Privileges concluded that:

It is this Committee’s view that the CSPL has correctly interpreted the powers of the House as including the power to withhold resettlement grant, which is presently founded on resolutions of the House. It follows that it would be possible for the Committee to recommend the use of such a sanction. We will be ready to consider recommending the withholding of

51 *Ibid.*

52 [HC Deb, 26 June 2003](#), vol 407, cols 1241–42

53 [CJ \(2002–03\), 488](#) (26 June 2003)

54 [Committee on Standards in Public Life, Twelfth Report, MPs’ Expenses and Allowances](#) (2009) (Cm 7724)

resettlement grant in future cases where it appears to us to be the right sanction to apply in the light of the breach that has occurred. However, we have no plans to make it the sanction of first resort, not least because it would have the effect of postponing the imposition of a penalty, potentially by many years.<sup>55</sup>

51. Some months after the Committee published this statement, it reverted to the topic in a report on an individual case, that of Mr Harry Cohen who had designated as his main home a house that was let for 6-month periods, and claimed over £60,000 to which he was not entitled. The Committee noted that it had undertaken to consider withholding the resettlement grant in an appropriate case, and added:

We consider this to be such a case. Mr Cohen’s breach was particularly serious and it involved a large sum of public money. Withholding of the resettlement grant is a severe sanction, which will effectively recover from Mr Cohen a similarly large sum of public money. We understand that the resettlement grant payable to a Member with Mr Cohen’s length of service is the maximum, which is about £65,000. Mr Cohen has announced that he is standing down at the next General Election, so implementation of the sanction will not be unduly delayed.<sup>56</sup>

52. The House approved this recommendation and Mr Cohen’s resettlement grant was withheld.<sup>57</sup> No similar recommendation has been made by the Committee subsequently. Since then the system of payments to Members has been reformed so it may be unlikely that the Committee would need to use the withholding of such payments as a sanction, but the power to do so (by the House, on the recommendation of the Committee) still exists.

### Criticism of the existing sanctions regime

53. For many years the House’s system of sanctions has been criticised as inadequate. The Committee on Standards in Public Life, in its 2002 review of the conduct of MPs, summarised the evidence it had received which “suggested that the range of penalties available was insufficient”.<sup>58</sup> One of the CSPL’s witnesses at that time was quoted as saying:

we are in this situation where you go from nothing to suspension, and there is not really enough in the middle. I think that having some system of fining ... would at least enable the Committee to have some sort of quantification of how serious an offence was.<sup>59</sup>

54. As we have seen, a limited power to withhold a Member’s salary without suspending them was eventually introduced as a consequence of the CSPL report, but it has never been exercised and has only partially filled the “sanctions gap” identified in 2002.

55 [Committee on Standards and Privileges, Second Report of Session 2009–10, Implementing the Twelfth Report from the Committee on Standards in Public Life \(HC 67\)](#), published 26 November 2010, para 18

56 [Committee on Standards and Privileges, Seventh Report of Session 2009–10, Harry Cohen \(HC 310\)](#), published on 22 January 2009, paras 21–22

57 [CJ \(2009–10\)](#), 185 (Monday 1 February 2010)

58 [Committee on Standards in Public Life, Standards of Conduct in the House of Commons \(2002\) \(Cm 5663\)](#), para 6.38

59 *Ibid.*, para 6.40 The witness was Robert Kaye, an academic at the LSE.

55. We have been concerned that in non-ICGS cases the lack of “intermediate” sanctions has been a problem: that is, where a sanction stronger than apology is called for, but less severe than suspension. It is striking that there is currently no explicit power to require a Member to attend training or to withdraw services or facilities from a Member for a specified period. The Committee might attempt to impose such sanctions, on the grounds that a failure to comply would be regarded as a breach of the Code and be subject to more serious sanction such as suspension, but in the absence of explicit authority from the House, any such attempt by the Committee might be challenged by the Member concerned as unjust and *ultra vires*.

56. The development of the ICGS has drawn further attention to the inadequacy of the House’s sanctioning powers against Members. Dame Laura Cox, in her report on bullying and harassment of House staff, cited lack of confidence in the sanctions system as a reason why few formal complaints had been made under the old (now abolished) ‘Respect’ policy:

The absence of complaints in respect of more serious abuse is illustrative of the lack of confidence in this policy expressed by staff, “Where are the sanctions? There aren’t any, complaining is pointless”.<sup>60</sup>

57. Dame Laura agreed with a witness who told her that “[S]anctions must have teeth. [ ... ] To have credibility the system has to be independent, both for investigations and for sanctions”.<sup>61</sup> She commented that “[a]t present there is nothing identified by way of possible sanction between those at apology level and the suspension or recall of an MP”.<sup>62</sup>

58. In advocating an independent process, Dame Laura stated that:

One of the problems with the current system is the absence of a range of specified sanctions for cases where these complaints are upheld. Leaving aside the extreme case of triggering a recall petition, with all its difficult democratic implications, there is obviously a broad range of possible sanctions to be considered, apart from apologies or attendance on training or behaviour programmes, including for example the imposition of fines, disqualification from, or suspension of membership of select committees or membership of overseas delegations; the withdrawal of services by House staff, or the withdrawal of financial support for visits abroad or other activities. Only if a very serious question was raised during the process as to someone’s fitness to serve as a Member should consideration be given to a report to the House to determine any question of recall.<sup>63</sup>

59. We have taken account of Dame Laura’s proposals in devising our own new suite of sanctions for both ICGS and non-ICGS cases (for which, see paragraphs 83 to 121 below).

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60 [Dame Laura Cox DBE, The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report, para 286](#)

61 [Dame Laura Cox DBE, The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report, para 381](#)

62 [Dame Laura Cox DBE, The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report, para 368](#)

63 [Dame Laura Cox DBE, The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report, para 404](#)

## The ICGS and sanctions

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### The Committee's role in relation to ICGS

60. The Committee on Standards has contributed to the recent development of Parliament's policy to tackle bullying, harassment and sexual misconduct within the parliamentary community. On 19 July 2018 the House approved a Behaviour Code for Parliament and an Independent Complaints and Grievance Scheme (ICGS), on the basis of a 'Delivery Report' of a Steering Group chaired by the Leader of the House,<sup>64</sup> and our predecessors' Report on *Independent Complaints and Grievance Policy: Implementation*.<sup>65</sup> The House set up two independent helplines (one dealing with bullying and harassment, the other with sexual misconduct).<sup>66</sup> The ICGS involves independent investigators overseen by the Parliamentary Commissioner for Standards after the initial stages of disclosure, eligibility test and assessment, where the respondent is a Member or a former Member. The Committee was given responsibility for dealing with ICGS cases referred by the Commissioner, and appeals, where the alleged breaches of the Behaviour Code were by Members.

61. The Resolution agreed by the House in July 2018 noted that Dame Laura Cox QC was conducting an independent inquiry into allegations that House of Commons staff had been subject to bullying, harassment and sexual misconduct by Members and by other staff, and called for the planned six-month review of the ICGS to incorporate the findings of Dame Laura's inquiry.<sup>67</sup> On 25 October 2018 Dame Laura published her report, which made severe criticisms of the House's handling of the issue.<sup>68</sup>

62. The House of Commons Commission issued a response to the report:

We have a statutory responsibility for the employment of House staff and have too often failed to honour the responsibility to provide a workplace free from bullying and harassment. Dame Laura Cox's report describes an institutional failure to address the problem which has undermined the legitimacy and authority of the House of Commons.

The scale of the problem and depth of hurt caused is beyond dispute.

We are determined to take immediate steps to rectify past mistakes where and when we can and are committed to a robust effort to change the culture which has tolerated such abuses. The staff of the House of Commons are essential to the functioning of democracy. We deeply regret that their diligence has at times been so poorly repaid, and that it has taken so long for us recognise what must be done.<sup>69</sup>

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64 [Independent Complaints and Grievance Scheme Delivery Report \(July 2018\)](#)

65 [Committee on Standards, Second Report of Session 2017–19, Independent Complaints and Grievance Policy: Implementation](#) (HC 1396), published 13 July 2018

66 Since 3 July 2020 there has been a single helpline.

67 [Votes and Proceedings, 19 July 2018](#)

68 [Dame Laura Cox DBE, The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report](#)

69 Extract from [House of Commons Commission statement issued on 24 October 2018](#)

63. The Committee on Standards commented that “We, like the Commission, deeply regret what has gone wrong, and commit ourselves to contributing to putting things right.”<sup>70</sup>

64. One of Dame Laura’s key recommendations was that that “the process for determining complaints of bullying, harassment or sexual harassment brought by House staff against Members of Parliament will be an entirely independent process, in which Members of Parliament will play no part”.<sup>71</sup>

65. It has taken the House a long time to implement Dame Laura’s recommendation. During the interim period, from late 2018 through till June 2020, the Committee was conscious that it would remain responsible for handling ICGS sanctions and appeals cases involving complaints against Members until such time as the House removed that responsibility from it. The Committee readied itself for this possible role in three ways:

- a) by taking further steps to enhance the elements of independence in the existing system – in January 2019 the House agreed to proposals by the Committee to strengthen the operational independence of the Commissioner, and to confer full voting rights on the lay members of the Committee;<sup>72</sup>
- b) by producing a framework for its conduct of ICGS appeals, set out in a report to the House;<sup>73</sup>
- c) by setting up a Sub-Committee on ICGS Matters to give consideration to ICGS cases referred by the Commissioner and to hear appeals.<sup>74</sup>

66. In the event no cases were referred by the Commissioner. The Sub-Committee, chaired by a lay member, heard one appeal by a complainant, in summer 2019, which it dismissed. Because of the confidentiality which attaches to ICGS cases, the Sub-Committee communicated the outcome of the appeal to the complainant and to the Commissioner, but divulged no details of the case to the main Committee or the House.

67. On 23 June 2020 the House finally approved the setting up of an Independent Expert Panel (IEP) to which the consideration of individual ICGS cases has now been transferred. During the debate, the Leader of the House made clear what he expects to be the nature of the Panel:

Let me come to the panel and the level of member that we expect. The panel’s members must bring significant expertise to the process, and we will expect it to be led by somebody who has a standing equivalent to that of a High Court judge. It must also include knowledge of human resources, employment law, bullying and harassment cases and sexual harassment cases.<sup>75</sup>

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70 [Committee on Standards, Fifth Report of Session 2017–19, Implications of the Dame Laura Cox Report for the House’s standards system: initial proposals \(HC 1726\)](#), published 10 December 2018, para 5

71 [Dame Laura Cox DBE, The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report](#), p 6

72 [Committee on Standards, Fifth Report of Session 2017–19, Implications of the Dame Laura Cox Report for the House’s standards system: initial proposals \(HC 1726\)](#); Votes and Proceedings, 7 January 2019

73 [Committee on Standards, Sixth Report of Session 2017–19, The Committee’s role in ICGS appeals \(HC 1976\)](#), published 13 March 2019

74 [Committee on Standards, Formal Minutes, Session 2017–19](#), 14 May 2019

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

We give details of the Panel and how it is expected to work in Appendix 3 to this Report.

## ICGS sanctions against Members

68. In February 2018 the House committed itself to developing an independent complaints and grievance scheme that would include “appropriate sanctions”.<sup>76</sup> The Parliamentary Behaviour Code, approved by the House in July 2018, states that “[u]nacceptable behaviour will be dealt with seriously, independently *and with effective sanctions* [our italics]”.<sup>77</sup> The Delivery Report, agreed at the same time, discussed the role of sanctions against Members under the ICGS:

The Commissioner will have power to propose remedies—in effect, sanctions—if she sees fit. Given the broad range of behaviours which might be sanctioned, it is likely that the remedies will be equally varied; apologies, training or behaviour agreements will be available, but there may be cases when some other remediation would be appropriate. Standing Order changes are proposed to give the Commissioner the power to agree remedies within a framework agreed by the Committee. It will be open to the Committee on Standards to publish reports setting out its principles which would assist the House.

If an MP resists a remedy proposed by the Commissioner, or if their behaviour warrants a stronger sanction, the Commissioner will prepare a memorandum for the Committee on Standards, which will be able to recommend stronger sanctions—up to and including expulsion—to the House.<sup>78</sup>

69. Separate policies on bullying and harassment and on sexual misconduct are incorporated in the Delivery Report. Each contains a table listing sanctions. Those applicable to Members are identical in each policy: “The Commissioner for Standards (Commons or Lords) in conjunction with the relevant committee of the Houses [will impose sanctions] for the most serious cases or where alternative resolutions have failed.” The sanctions will consist of “Rectification to restore and maintain working relationships, including but not limited to an apology, behaviour agreement and compulsory training” and “Suspension/recall”.<sup>79</sup> The bullying and harassment policy states that decisions about sanctions should take into account the wishes of the complainant (as documented in the Independent Investigation Service report), the role of the perpetrator, the severity of the conduct and any precedents set in comparable cases.<sup>80</sup>

70. In her October 2018 report Dame Laura Cox stated that “[a]ny policy tackling bullying, harassment and sexual harassment needs to have [ ... ] a range of effective sanctions available, and published, for cases where the complaint is upheld”.<sup>81</sup> As we have seen,

76 [Vote and Proceedings, 28 February 2018](#), Resolution (Independent Complaints and Grievance Policy)

77 [Votes and Proceedings, 19 July 2018](#)

78 [Independent Complaints and Grievance Scheme Delivery Report \(July 2018\)](#), pp 20–21

79 [Independent Complaints and Grievance Scheme Delivery Report \(July 2018\)](#), pp 68 (Bullying and Harassment Policy) and 91 (Sexual Misconduct Policy)

80 [Independent Complaints and Grievance Scheme Delivery Report \(July 2018\)](#), pp 63–64

81 [Dame Laura Cox DBE, The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report](#), para 229

she commented that “[a]t present there is nothing identified by way of possible sanction between those at apology level and the suspension or recall of an MP”, and identified a range of suitable additional sanctions.<sup>82</sup>

71. Alison Stanley CBE conducted an “Independent Six Month Review” of the ICGS. Her review report was published in May 2019. She commented that:

A good number of stakeholders and contributors to my Review raised with me the issue of sanctions for bullying and harassment or sexual misconduct. There was concern that the range of sanctions available was not clear and, in respect of MPs, was not wide enough in range, to effectively address or change behaviour.<sup>83</sup>

72. Gemma White QC published in July 2019 an independent report on allegations of bullying of MPs’ staff.<sup>84</sup> She stated that contributors to her inquiry “referred to the lack of an appropriate range of sanctions short of suspension or expulsion of the Member and wondered (rhetorically) what would be the point of bringing a complaint”.<sup>85</sup> She added: “consideration of the range of potential remedies will be a key consideration for anyone deciding whether to make a complaint. The failure precisely to identify available remedies is an additional inhibitor on complaints being brought.”<sup>86</sup>

**73. The House agreed on 23 June 2020 to set up an Independent Expert Panel to deal with ICGS complaints against Members. We hope the Panel can be appointed swiftly and that it will attract the very highest calibre of applicants, including several senior lawyers or retired judges experienced in handling similarly sensitive cases across the legal systems of the UK and in handling evidence. Following the House’s decision to set up the Panel, and the attendant standing order changes, the Committee on Standards will not play any further role in relation to individual ICGS complaints, other than in respect of non-compliance with sanctions.<sup>87</sup> However, we hope that we can assist the House by putting forward for its approval a set of proposed changes to the sanctions regime for both ICGS and non-ICGS cases, to enable the incoming Panel to make decisions on sanctions in individual cases without delay. The proposed changes are set out in the final section of this Report. Once the Panel is up and running, it will be able to propose to the House any modifications to this new sanctions regime which it considers desirable (and might, in the interests of maintaining consistency within the House’s sanctions systems, offer proposals to this Committee about modifications to non-ICGS sanctions if this were to be desirable to keep them in line with any changes to ICGS sanctions).**

82 See para 57 above, and [Dame Laura Cox DBE, The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report](#), paras 368, 404

83 [Alison Stanley CBE, Independent 6-month Review UK Parliament Independent Complaints and Grievance Scheme](#), published 31 May 2019, para 92

84 [Gemma White QC, Bullying and Harassment of MPs’ Parliamentary Staff – Independent Inquiry Report](#), (Session 2017–19, HC 2206), published 11 July 2019

85 *Ibid.*, para 100

86 *Ibid.*, para 129

87 The House has amended the Code of Conduct to provide that non-compliance by a Member with a sanction imposed by the Panel “shall be treated as a breach of the Code”; such a breach could be referred by the Commissioner to the Committee on Standards. In such circumstances, the Committee would not in any way re-open the case itself, but would consider whether the alleged non-compliance was in breach of the Code and if so whether a sanction should be imposed or recommended for that breach. See [Votes and Proceedings, 23 June 2020, item 8](#).

## Proposals for the future (1): Consistency in imposing sanctions

74. In its 2015 Report on *The Standards System in the House of Commons*, our predecessor Committee considered the merits of a “tariff”, that is, codified guidelines relating to the sanctions appropriate for different types of breach. The Committee concluded that the introduction of a tariff “would be difficult because no two cases are the same”. The Committee added:

[ ... ] failure to register an interest may spring from a desire to conceal something significant, or from simple oversight. In the case of sanctions imposed by Parliament in criminal law, a range of sentences is generally allowed to the courts on the basis that there are always degrees of culpability and different mitigating or aggravating circumstances. A table of tariffs would in our view have so wide a series of ranges as to be wholly unhelpful.<sup>88</sup>

Our predecessor Committee did, however, acknowledge the importance of consistency in the application of sanctions: “consistency is a guard against favouritism or inappropriate severity”.<sup>89</sup> We concur and believe that greater consistency can be facilitated by greater clarity on the full range of sanctions that might be imposed on a Member in non-ICGS cases.

### Comparison with other Parliaments and Assemblies

75. Some comparator bodies at home and abroad have codified guidance on assessing the seriousness of a breach. The complaints procedure of Senedd Cymru/the Welsh Parliament states that the committee considering sanctions for a breach will consider:

the severity of the breach, the extent to which it may have brought the Assembly into disrepute, and whether the case in question is a repeat offence, or shows persistent conduct which may be considered to show contempt for Assembly colleagues, the rules or the institution. The Committee will also take account of intent, i.e. whether a breach is deemed to have been committed intentionally or not, and whether any dishonesty or deceit is deemed to have been involved.<sup>90</sup>

Similarly, the European Parliament provides in its rules of conduct that:

When assessing the conduct observed, account shall be taken of its exceptional, recurrent or permanent nature and of its seriousness. Account shall also be taken, if applicable, of possible damage inflicted on the dignity and reputation of Parliament.<sup>91</sup>

76. Although not legislative bodies, the devolved local government standards bodies in the UK (the Standards Commission for Scotland, Northern Ireland Commissioner

88 [Committee on Standards, Sixth Report of Session 2014–15, \*The Standards System in the House of Commons\*, \(HC 383\)](#), para 155

89 *Ibid.*

90 [National Assembly for Wales Complaints Procedure](#)

91 [Rules of Procedure of the European Parliament](#), Rule 176

for Local Government Standards, and Adjudication Panel for Wales) carry out similar tasks to the Committee on Standards, in considering findings presented to them by an independent investigator and deciding if a sanction should be applied, and if so, what it should be. All three of these bodies publish guidance on assessing the seriousness of a breach and on potential mitigating and aggravating factors.<sup>92</sup>

77. Two of the devolved local government standards bodies, the Adjudication Panel for Wales and the Northern Ireland Local Government Commissioner for Standards, have set out guidance setting out in what cases particular sanctions are likely to be appropriate.<sup>93</sup> However, even these two examples are limited in scope. Both sets of guidance explicitly state that they are indicative rather than binding. Only guidance on the highest level sanction (disqualification) tends to specify classes of offence (for example, misusing resources); in most cases sanctions are linked with particular aggravating factors rather than classes of breach (for example: repeated breaches, or motivation of personal gain). The reason for this is perhaps clear: if mitigating or aggravating factors are genuinely to be taken into account, they must have real weight in guiding the sanction applied. Providing a tariff of sanctions solely against particular classes of breach would ignore the importance of aggravating and mitigating factors in determining the sanction applied.

### The development of a tariff

78. **Consistency in the way standards cases are dealt with is vital to public confidence in the system. The public expect fair, equal treatment for all Members and complainants regardless of their political party, their status or their seniority as a bare minimum of due process. Likewise a Member has the right to be dealt with no more severely or more leniently than another in a similar set of circumstances. Moreover consistency of approach is vital if we are to promote best practice and Members are to understand what is expected of them. This is not a simple matter, however. Fortunately, the Commissioner and Committee do not have a vast pool of cases from which to source precedents. Although there may be similarities, no two cases are identical and it is important that the Commissioner and Committee are able to consider aggravating and mitigating factors in determining the appropriate sanction. For these reasons it would be inappropriate to draw up a hard and fast tariff of sanctions lined up against particular types or severity of breach.**

79. **That does not mean, however, that we should not have a clear structure of sanctions, together with a clear statement of how and in what circumstances the Commissioner and Committee would expect to impose them, plus a much clearer codification of how aggravating and mitigating factors will be considered. These have been successfully codified by other similar bodies. Members and the public rightly expect that there should be consistent application of sanctions, to avoid any suggestion**

92 Standards Commission for Scotland Sanctions Policy. Available at: <https://www.standardscommissionscotland.org.uk/uploads/files/1469607501160727Section19SanctionsPolicyv1.0.pdf>; Sanctions Guidance issued by the President of the Adjudication Panel for Wales under Section 75(10) of the Local Government Act 2000. Available at: <https://adjudicationpanel.gov.wales/sites/adjudicationpanel/files/2019-08/apw04-en.pdf>; Northern Ireland Local Government Commissioner for Standards Sanctions Guidelines (June 2016). Available at <https://nipso.org.uk/site/wp-content/uploads/2016/08/sanctions-guidelines-June-2016.pdf>

93 Sanctions Guidance issued by the President of the Adjudication Panel for Wales under Section 75(10) of the Local Government Act 2000. Available at: <https://adjudicationpanel.gov.wales/sites/adjudicationpanel/files/2019-08/apw04-en.pdf>; Northern Ireland Local Government Commissioner for Standards Sanctions Guidelines (June 2016). Available at <https://nipso.org.uk/site/wp-content/uploads/2016/08/sanctions-guidelines-June-2016.pdf>.

that their application is arbitrary. We conclude that a codified list of aggravating and mitigating factors would be a helpful guide to our, and our successors', deliberations on individual cases.

80. Drawing on the Committee's past conclusions in a range of cases, we propose to adopt the list of aggravating and mitigating factors set out in the table below.

**Table 1: Aggravating and mitigating factors**

Aggravating factors
Non-cooperation with the Commissioner or the investigation process; concealing or withholding evidence
Seniority and experience of the Member
Racist, sexist or homophobic behaviour
Use of intimidation or abuse of power
Deliberate breach or acting against advice given
Motivation of personal gain
Failure to seek advice when it would have been reasonable to do so
A repeat offence, or indication that the offence was part of a pattern of behaviour
Any breach of the rules which also demonstrates a disregard of one or more of the General Principles of Conduct or of the Parliamentary Behaviour Code.

Mitigating factors
Physical or mental ill health, or other personal trauma
Lack of intent to breach the rules (including misunderstanding of the rules if they are unclear)
Acting in good faith, having sought advice from relevant authorities
Evidence of the Member's intention to uphold the General Principles of Conduct and the Parliamentary Behaviour Code
Acknowledgement of breach, self-knowledge and genuine remorse

81. The list is not intended to be comprehensive and the factors are not listed in any particular order of priority. We will keep the list under review. In particular, we will give consideration to whether greater clarity could be achieved as to what might lead us to regard a case as sufficiently serious to merit (a) suspension and (b) suspension for more than 10 days (i.e. which triggers the recall process).

82. We do not regard it as appropriate to make recommendations about aggravating and mitigating factors in ICGS cases. That will be a matter for the Independent Expert Panel when it comes into existence.

## Proposals for the future (2): A new suite of sanctions

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### How far should the House delegate the power to impose sanctions?

83. It was clear from the start of our inquiry that any new suite of sanctions that we might recommend to the House could involve some changes in the level at which existing non-ICGS sanctions can be authorised, with a delegation of responsibility from the Committee to the Commissioner. We were aware that we would also need to assess the appropriate level at which ICGS sanctions should be authorised.

84. Before making decision on these matters, we consulted the Clerk of the House about:

The extent to which, procedurally and constitutionally, it is proper and/or desirable for the House to delegate its sanctioning powers in respect of breaches of the Code of Conduct or the Behaviour Code; in particular, whether sanctions of various levels of severity can and should be delegated to the Committee on Standards, to an external body (as envisaged as an option in the Dame Laura Cox report), to the Parliamentary Commissioner for Standards (PCS) or to House of Commons staff.

85. The Clerk sent us a detailed response which is published with the written evidence accompanying this report.<sup>94</sup> We summarise his conclusions as follows:

- a) overall the House has the authority to delegate its own powers as it thinks fit, and regularly does so (for example, in granting powers to select committees to send for persons, powers and records);
- b) notwithstanding this, there comes a point beyond which any delegation would be inappropriate: “I do not think, for instance, that the House would readily contemplate a proposal to delegate its power to impose the sanctions of suspension or ultimately expulsion from the service of the House”; and similar concerns might apply to any sanction which effectively barred a Member from carrying out their core parliamentary duties, such as tabling questions and amendments to legislation, or participating in the formal proceedings of a select committee;
- c) there may be sanctions less serious than suspension which the House would be willing to delegate even though they directly impacted Members in the conduct of their parliamentary functions, including:
  - i) restrictions in participation in select committee activities (e.g. overseas and UK visits);
  - ii) exclusion from specific locations (e.g. Lower Table Office; Members’ Library; Vote Office outlets);
  - iii) exclusion from participation in overseas delegations.

- d) Other sanctions which do not restrict Members' ability to undertake parliamentary functions might include a requirement to make a written apology, temporary exclusion from entering a part of the estate such as a bar or catering outlet or being required to attend a training course.
- e) The Speaker has ultimate authority over many aspects of accommodation and services in the House of Commons portion of the parliamentary estate, and can withhold access to locations on the estate.

86. **In drawing up the proposals set out in the next section of this Report, we have been mindful to ensure that they are compliant with the guidance from the Clerk of the House. We note especially the distinction the Clerk draws between sanctions which bar a Member from carrying out their core parliamentary duties and those which do not. It has always been accepted that some very serious sanctions will fall into the former category: a Member who is suspended, for instance, cannot take part in proceedings, which would bar them from tabling questions or amendments or taking part in formal select committee activities. We accept that barring a Member from carrying out any of their core parliamentary functions should be a sanction only to be imposed by an explicit decision of the House in the individual case. Under our proposals, suspension, like expulsion, will continue to be a sanction which only the House itself can impose. We also agree with the Clerk of the House's view that lesser sanctions, which do not bar Members from carrying out their core parliamentary duties, may be delegated by the House to the Committee, the Independent Expert Panel, or the Commissioner, and we make proposals below as to how this should be done.**

87. **How much the House is prepared to delegate to a committee of the House, or even to non-Members, is not set in stone. Decisions delegated to the Committee on Standards are now shared with the lay members. Substantial powers to investigate and to sanction have been delegated to the Commissioner. The House has also now agreed that powers to adjudicate appeals under the Independent Complaints and Grievance Scheme should rest with the new Independent Expert Panel, subject only to a final vote without debate in the House. If these changes remain credible, and are seen to rebuild staff and public confidence in the governance of the House of Commons, there may be a case for extending this principle of delegation, both in respect of the Commons Code of Conduct, and in respect of the seriousness of the sanctions being applied. We will keep this under consideration while we conclude our review of the Code of Conduct.**

### **Proposed sanctions in ICGS and non-ICGS cases**

88. **We set out below in two tables, dealing respectively with ICGS and non-ICGS cases, a summary version of the expanded suite of sanctions we propose that the House adopts (in addition to current sanctions and rectification procedures). In the tables "Commissioner" means Parliamentary Commissioner for Standards and "Panel" means the Independent Expert Panel. Each table sets out a list of sanctions, in increasing order of severity, noting whether it is the Commissioner, the Committee or Panel, or the House which will have authority to impose each sanction, and whether that authority currently exists or will require a decision of the House in order to confer it.**

89. Because there is considerable overlap between the tables, albeit with some significant differences, we follow the tables with a single commentary on each sanction, making particular reference to circumstances when it may be appropriate for use specifically in ICGS or non-ICGS cases.

90. Although for the sake of simplicity we do not make this explicit in the tables, it is important to note that sanctions available to the Commissioner would also be available to the Committee and Panel. This will enable them to impose a ‘package’ of sanctions, including relatively minor as well as major ones, as appropriate in individual cases. We do not intend the tables to be taken as a straitjacket but as a simplified guide to the range of sanctions against Members which the various decision-making bodies will be able to deploy, flexibly and responsively to the circumstances of individual cases.

91. Our aim has been to devise a robust, fair and enforceable system of sanctions which are fit for purpose. We have borne in mind the four purposes of sanctions as set out by the Committee on Standards in Public Life: “motivating observance of standards arrangements, deterring damaging behaviour, preventing further wrongdoing, and maintaining public confidence”.<sup>95</sup>

92. In relation to ICGS sanctions, we endorse the view of the Commissioner that they must provide both “sanction to the Member and a sense of fairness to the complainant”, and of the CSPL that “the sanction must be appropriate and meaningful to those who have been subject to bullying and harassment”.<sup>96</sup>

93. We have also been conscious of the need to ensure, as far as possible, that sanctions penalise a Member who has broken the rules, but do not impact negatively upon either the Member’s staff or constituents.

**Table 2: Sanctions in ICGS cases**

Proposed sanction	Decision-making body	Is this an existing power?
Informal resolution	Commissioner	Yes
Words of advice (informal)	Commissioner	No—approval by House needed
Words of advice (formal)	Commissioner	No—approval by House needed
Requirement to attend training or enter into behaviour agreement	Commissioner	No—approval by House needed
Written apology to complainant mandated by Commissioner	Commissioner	No—approval by House needed
Written apology to the House	Commissioner	No—approval by House needed
Apology to the House in a point of order	Commissioner	No—approval by House needed
Apology to the House in a personal statement	Commissioner	No—approval by House needed

95 [SAN0002 \(Committee on Standards in Public Life\)](#), para 9

96 Appendix 1; [SAN0002 \(Committee on Standards in Public Life\)](#), para 13

Proposed sanction	Decision-making body	Is this an existing power?
Withdrawal of services and facilities / other personal restrictions including travel (not involving participation in proceedings)	Commissioner	No—approval by House needed
Withdrawal of services and facilities / other personal restrictions including travel (involving participation in proceedings)	Panel	No - approval by House needed
Dismissal from select committee	The House, on the recommendation of the Panel	No—approval by House needed
Salary or allowances withheld without suspension	The House, on the recommendation of the Panel	Yes
Suspension	The House, on the recommendation of the Panel	Yes
Expulsion	The House, on the recommendation of the Panel	Yes

**Table 3: Sanctions in non-ICGS cases**

Proposed sanction	Decision-making body	Is this an existing power?
Informal resolution	Commissioner	Yes
Words of advice (informal)	Commissioner	No—approval by House needed
Words of advice (formal)	Commissioner	No—approval by House needed
Correction of register	Commissioner	Yes
Requirement to attend training	Commissioner	No—approval by House needed
Written apology mandated by Standards Committee	Standards Committee	Yes
Apology to the House in a point of order	Standards Committee	Yes
Apology to the House in a personal statement	Standards Committee	Yes
Repayment of money	Commissioner if the Member agrees—otherwise Standards Committee	Yes
Withdrawal of services and facilities / other personal restrictions including travel	Standards Committee	No—approval by House needed
Dismissal from select committee	The House, on the recommendation of Standards Committee	No—approval by House needed

Proposed sanction	Decision-making body	Is this an existing power?
Salary or allowances withheld without suspension	The House, on the recommendation of Standards Committee	Yes
Suspension	The House, on the recommendation of Standards Committee	Yes
Expulsion	The House, on the recommendation of Standards Committee	Yes

94. Our tables err on the side of caution in their reference (in the final column) to whether a sanctioning power exists already or needs to be authorised by the House. Both the Commissioner and the Committee, and by extension when it comes to being the Panel, have considerable delegated authority implicit in their functions conferred by standing orders, but we feel that it is an appropriate moment for us to seek the House's explicit approval for the right to impose specific sanctions to ensure that there can be no reasonable challenge to the exercise of that right.

## Commentary on the proposed sanctions

### *Informal resolution [ICGS and non-ICGS cases]*

95. Informal resolution in the ICGS is not a sanction *per se* but it is an acknowledgement of “wrongdoing” and a desire to put something right. It can only be achieved with the agreement of both/all parties. Rectification in non-ICGS cases is a long-established means of resolving minor breaches of the Code without recourse to the Committee (we set out details of the rectification process in paragraphs 15 to 17 above). Neither mode of informal resolution requires any further authorisation by the House.

### *Words of advice (ICGS and non-ICGS cases)*

96. The Commissioner's view is that an early intervention by her with a Member whose conduct has given grounds for concern may be effective in persuading that Member to modify their attitude, behaviour or conduct. The Commissioner has recently instituted a policy, endorsed by the Committee, of having confidential conversations with Members of Parliament to inform them of the number and nature of complaints received about social media posts. Such conversations are purely informal and no record is kept other than for statistical purposes.

97. The Commissioner already has wide-ranging powers within the terms of Standing Order No. 150 to give advice to Members on standards matters. We are satisfied that the Commissioner's policy referred to in the previous paragraph falls within her existing powers. Nonetheless, we consider it would be helpful if explicit authorisation were to be given in relation to “words of advice” concerning a Member's attitude, behaviour or conduct. It should be hoped that such conversations might lead to an agreement that the Member would volunteer to attend an appropriate training course. ***We recommend that the House should give the Commissioner specific authority to be pro-active, where they see fit, in:***

- a) *instigating informal discussions with a Member, by phone or email, to indicate their concern about the Member's reported attitude, behaviour or conduct; and*
- b) *requiring a Member to attend a formal meeting at which the Commissioner would indicate their concern about the Member's reported attitude, behaviour or conduct, ask them to reflect on this, and offer access to appropriate individual coaching to promote positive attitudes and behaviour, and to identify negative ones. The Commissioner should also draw their attention to the possibility of a more formal investigation which would be published on conclusion. In this case a record would be kept on file for six months and then destroyed.*

### **Correction of Register [non-ICGS cases]**

98. The Commissioner and the Committee currently have the right to require Members in non-ICGS cases to correct erroneous or missing entries in the Register of Members' Financial Interests. Rectification requires a belated entry in the current Register in bold italic type with an appropriate explanatory note; a rectified entry remains in the Register in that form for 12 months.<sup>97</sup> **We do not propose any change to this arrangement.**

### **Requirement to attend training [ICGS and non-ICGS cases]**

99. The Delivery Report sets out a proposal for training as a sanction:

Where training is deemed an appropriate outcome as a result of an informal or formal process, a coach experienced in addressing behaviours related to bullying, harassment and sexual misconduct will be commissioned to work with the individual. The focus of the intervention will vary according to the individual and circumstances but would be aimed at enabling them to: understand the impact of their behaviour • understand how it may be experienced by others • explore what influences their inappropriate behaviour • take responsibility for their behaviour and commit to make changes.<sup>98</sup>

100. It has always been envisaged that compulsory training should be available as a sanction in ICGS cases. We consider that it may well also be useful in non-ICGS cases. We intend that training as a sanction for Members should take the form of individual coaching to promote positive attitudes and behaviour, and to identify negative ones, in the areas of:

- Inclusion and diversity
- Dignity in the workplace
- Anger management
- People management
- The Seven Principles of Public Life.

<sup>97</sup> See [The Code of Conduct and Guide to the Rules](#) (2019), chapter 4, para 15

<sup>98</sup> [Independent Complaints and Grievance Scheme Delivery Report \(July 2018\)](#), p 16

A coaching service for providing training as a sanction under the ICGS has already been procured by the House (it is operated by the Tavistock Institute) and has been used in two ICGS cases (not involving MPs).

101. It has also been proposed that both the Commissioner and the Panel should have power to require Members to enter into a behaviour agreement or give an undertaking to modify their future behaviour.<sup>99</sup>

***102. We recommend that the House authorise the Commissioner, and the Panel, to require Members to attend specified training or coaching sessions, and, if the Commissioner or Panel considers it appropriate, to enter into behaviour agreements, as a sanction in both ICGS and non-ICGS cases.***

### ***Apologies [ICGS and non-ICGS cases]***

103. We have described at paragraphs 19 to 21 above the various kinds of apology which the Committee can presently require a Member to make in non-ICGS cases: apologies in writing to the Committee, to specified individuals, or to the House on a point of order or through a personal statement. In addition, the Commissioner can require an apology as a condition of her agreeing to use the rectification procedure.

***104. It would be appropriate for equivalent forms of apology to be available to the Commissioner (and the Panel) in ICGS cases. We do not presently propose any changes to the existing arrangements in non-ICGS cases under which (except in rectification cases) it is for the Committee rather than the Commissioner to require an apology as a sanction. We recognise that this will result in a disparity between the ICGS and non-ICGS sanctions regimes; we will keep this matter under consideration and will return to it in our forthcoming review of the Code of Conduct and the wider sanctions system.***<sup>100</sup>

### ***Repayment of money [non-ICGS cases]***

105. Both the Commissioner and the Committee have the power, in non-ICGS cases, to require a Member to repay public money that they have wrongfully claimed or to repay the cost of services or facilities wrongfully used (see paragraphs 22 to 25 above). **We do not propose any change to this arrangement.**

### ***Withdrawal of services (including travel) [ICGS and non-ICGS cases]***

106. In her initial submission to us, the Commissioner requested that she be given power to require “Withdrawal of services / access from MP (not from office or constituents), for example exclusion from catering facilities or library services”. The Commissioner proposed that she would exercise this power in conjunction with staff responsible for the relevant service or facilities, including as appropriate security teams, catering staff or library staff, and that she would have power to determine the length of any withdrawal of service or access.<sup>101</sup>

99 [SAN0003 \(Trade Union Side\)](#)

100 We note that a further disparity will arise if our recommendations in paragraphs 111 to 113 below are adopted.

101 Appendix 1, table

107. It would be helpful to distinguish **two different reasons for withdrawing services or access to facilities from Members:**

- a) **As a response to behaviour that is detrimental to staff well-being.** This might include banning a Member for a specified period from access to bars and catering facilities, or Library facilities, or taking part in certain select committee activities, if they have been abusive towards staff or disruptive in those contexts. Such bans can be imposed on a short-time basis by officials, because the House Service has a duty of care towards its staff - for instance, Members have been banned from bars because their behaviour has adversely affected others. Alternatively, they might be imposed under the ICGS complaints procedure, by the Commissioner or the Panel, and following an investigation, but for a similar safeguarding purpose. Members might also be banned from having contact with a particular staff member, or from taking part in official travel.
- b) **As a sanction in an ICGS or non-ICGS case, by the Commissioner, Panel or Committee, where the primary purpose of the sanction is punishment rather than (or as well as) safeguarding.** Removal of the right to participate in some select committee activities might be an appropriate addition to the current suite of sanctions in some cases, because it would penalise the Member without disadvantaging their constituents.

108. The written evidence we received from the Clerk of the House contains a thoughtful assessment of the implications of this proposal. The Clerk notes a further important distinction, between sanctions which relate to the core representative functions of Members and those which do not:

For instance, preventing a Member from taking part in a select committee visit, which had been agreed on by a formal resolution of the committee, could be seen as interfering with a proceeding in parliament and not something that should be permitted except by explicit authority of the House expressed in a resolution. (Committees meeting outside Westminster can of course take formal evidence, which would make the non-participation of a Member more problematic.)<sup>102</sup>

109. As we have seen,<sup>103</sup> the Clerk considers that:

there may be sanctions less serious than suspension which the House would be willing to delegate even though they directly impacted Members in the conduct of their parliamentary functions, including:

- i) restrictions in participation in select committee activities (e.g. overseas and UK visits);
- ii) exclusion from specific locations (e.g. Lower Table Office; Members' Library; Vote Office outlets);
- iii) exclusion from participation in overseas delegations.

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102 [SCT0005 \(Dr John Benger, Clerk of the House of Commons\)](#), section 3

103 Para 85 above

Other sanctions which do not restrict Members' ability to undertake parliamentary functions might include a requirement to make a written apology, temporary exclusion from entering a part of the estate such as a bar or catering outlet or being required to attend a training course.

110. It is arguable that access to the Library's research services is core to the functions of a Member, but there should be no question that a Member could be denied physical access to the Library itself or to Derby Gate, or to any other physical space in the estate, where the relevant services can be accessed electronically or by telephone.

111. The Clerk of the House told us that "[t]he House Service does not immediately see any logistical barriers to withdrawing certain services as a response to behaviour that is detrimental to staff well-being, but work is ongoing to develop processes for this".<sup>104</sup>

*112. We recommend that the House should confer on the Commissioner power in ICGS cases to instruct the House authorities to withdraw services or access to facilities to Members, or their right to travel on committee business, as a sanction where the Commissioner has found them to have breached the Code of Conduct or the Behaviour Code, where the offending behaviour relates to the service, the select committee or the travel concerned, and as long as such action does not prevent a Member from taking part in proceedings in Parliament. The exercise of such power should distinguish where appropriate between the exclusion of a Member from a physical space such as the Library or Derby Gate, and the exclusion from a service to Members which could otherwise be accessed electronically or by telephone, such as the Library's research services which support Members in their work.*

*113. If the Commissioner considers it appropriate that a Member should be banned from taking part in certain proceedings (for instance, a ban on select committee travel which might involve the taking of formal evidence), they should make a recommendation to this effect to the Panel. In those circumstances the Panel should be empowered to impose such a sanction on the Member.*

*114. In non-ICGS cases we recommend that the House should confer similar powers to those set out in Paragraphs 112 and 113 above on the Committee.*

*115. We further recommend that where a decision-making body (the Commissioner, Panel or Committee) is contemplating the withdrawal of services or facilities from a Member as a formal sanction, that body should, where possible and if it considers it appropriate, consult the relevant House authorities in advance to seek their advice on how the sanction can best be implemented in practical terms.*

*116. We further recommend that any non-compliance by a Member with a sanction of this kind should be treated as a breach of the Code of Conduct, rendering them liable to a more severe sanction.*

*117. We emphasise that none of the above recommendations affects the power which undoubtedly exists for the House Service to impose restrictions of service upon Members where necessary as management actions and not as sanctions."*

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104 [SCT0005 \(Dr John Benger, Clerk of the House of Commons\)](#), section 4

### ***Dismissal from select committee [ICGS and non-ICGS cases]***

118. Each of the political parties has its own process for electing or selecting its Members for select committees and, barring voluntary resignations, Members are elected to committees for the whole of a Parliament. We would not want to interfere with this, but *where the Commissioner feels that there has been a breach of the Code which expressly relates to membership of a select committee or an international parliamentary delegation, we believe that the Committee on Standards (or the Panel in ICGS cases) should be able to recommend to the House that a Member be discharged from a specified select committee or delegation, or be prohibited from being appointed to other select committees or delegations, either for a fixed period or for the remainder of the Parliament.*

### ***Repayment of costs of investigation [ICGS and non-ICGS cases]***

119. The Commissioner has proposed to us that a Member who obstructs or causes unnecessary delay to an investigation might be required to repay some or all of the costs of the investigation. This is a matter to which we will return.

### ***Salary or allowances withheld without suspension [ICGS and non-ICGS cases]***

120. We have drawn attention in paragraphs 45 to 47 above to the House's decision in 2003 that, "in appropriate cases, the House should impose a penalty of withholding a Member's salary for a specified period without suspending the Member." The 2003 resolution remains in force, but the sanction of withholding salary without suspension has not so far been imposed. **We will consider this as a sanctioning option in future non-ICGS cases and draw this to the attention of the Panel as an option in ICGS cases. In both ICGS and non-ICGS cases, it will be for the House itself to impose this sanction on the recommendation of the Panel or Committee.**

### ***Suspension or expulsion [ICGS and non-ICGS cases]***

121. We have discussed in paragraphs 32 to 41 above the House's right to suspend or expel its Members, and the Committee's use of its right to recommend suspension as a sanction. Suspension also involves loss of salary and pension contributions. We note the Clerk of the House's comment that "I do not think [ ... ] that the House would readily contemplate a proposal to delegate its power to impose the sanctions of suspension or ultimately expulsion", and that this echoes the view expressed by the Joint Committee on Parliamentary Privilege in 1999 that "'It is inconceivable that power to suspend or expel a member of either House should be exercisable by the courts or some other outside body".<sup>105</sup> **We do not propose any change to existing arrangements in relation to suspension and expulsion in non-ICGS cases. We note that the House's decisions on 23 June 2020 provide a mechanism for the Independent Expert Panel to seek the House's approval for suspension or expulsion of a Member in ICGS cases.**

105 [Joint Committee on Parliamentary Privilege, First Report of Session 1998–99, Parliamentary Privilege \(HL 43-I / HC 214-I\)](#), published 30 March 1999, para 275

## Confidentiality

122. The extent to which the investigation of complaints of misconduct by Members is kept confidential at different stages of the process will necessarily differ between ICGS and non-ICGS cases.

123. In non-ICGS cases the practice has been for the actual conduct of investigations by the Commissioner, and the consideration of cases by the Committee, to remain confidential, in the interests of fairness and to avoid unhelpful and inaccurate press speculation, up until the point at which either the Commissioner makes a rectification announcement on her website, or the Committee publishes a report to the House. At that point, relevant evidence relating to the case is put in the public domain in a spirit of transparency.<sup>106</sup> In one respect there has been a recent tightening of the confidentiality requirements in non-ICGS cases. Prior to 2018, the Commissioner's practice had been to post a list of current investigations on her webpages, giving the name of the MP and the broad area of the investigation. While an investigation was taking place, if approached by the media or others, her office would confirm whether a complaint had been received and whether it was being investigated, and the broad area covered, but without giving out any further detail. In July 2018, in conjunction with its approval of the ICGS, the House extended the confidentiality provisions in non-ICGS cases to prevent the Commissioner from publishing any information about an inquiry, even the fact that it was being held, until the conclusion of the inquiry. The Commissioner has drawn our attention to the considerable difficulties caused by this new policy. In a Report we published in June 2020, we endorsed a proposal from her that the policy be changed.<sup>107</sup> ***We reaffirm our support for that proposal and hope the House will be given an early opportunity to decide on it.***

124. In ICGS cases it is universally accepted that there needs to be a higher degree of confidentiality throughout the complaints process, to protect vulnerable parties and to encourage people who have experienced bullying, harassment or sexual misconduct to bring forward complaints in the first place. The Delivery Report commented on confidentiality in the new system as follows:

The Independent Complaints and Grievance Policy is intended to set up a system in which people are encouraged to report and matters can be resolved at an early stage. In those cases, it would not be appropriate to release names of those under investigation at the outset. It is worth noting in this context that the publication of the details of a complaint is likely to lead the media to attempt to identify the complainant.

There needs to be some flexibility: a Member is likely to want publication of the fact that a complaint which has attracted widespread media attention has not been upheld but as general principles we consider that for ICGP complaints which are handled confidentially: a. There should be no publication of the fact that an investigation has commenced; b. If an unpublicised complaint is

106 Subject very occasionally to redactions if these are considered necessary. Recent cases of redaction by the Committee include redaction to protect the identity of a complainant who the Committee had found to have been threatened by the Member in question (Fourth Report of Session 2019–21, [Conor Burns](#) (HC 212)) and redaction to remove references to the medical history of a Member (First Report of Session 2019, [Keith Vaz](#) (HC 93)).

107 [Committee on Standards, Sixth Report of Session 2019–21, Confidentiality in the House's standards system \(HC 474\)](#), para 5

not upheld, the MP's name should not be published; c. In deciding whether to publish details of individual complaints which have proceeded to the stage of investigation by the Commissioner and have been remedied, the Commissioner should consider: i. the potential effect on the reporter and respect any desire for confidentiality on the reporter's part, and ii. whether naming the responder is proportionate in relation to the finding, bearing in mind the effect on the responder's reputation.<sup>108</sup>

125. The Delivery Report's recommendations were taken into account when, in July 2019, the House approved proposals for the ICGS with high levels of confidentiality.<sup>109</sup>

126. In her report on bullying and harassment of House of Commons staff, Dame Laura Cox commented that:

One of the recurring themes in this inquiry has been the acute distress caused to some people by the failure to maintain confidentiality in the complaints process. In these cases, where the complainant objects to publication of the nature of the allegations and of the alleged perpetrator, confidentiality should be maintained throughout the process.<sup>110</sup>

127. The nature of the ICGS process means that the work of the Independent Expert Panel will largely be conducted confidentially and in many cases even the outcome of a complaint, or the fact that the complaint has been brought, will not be published. In our June 2020 report, we draw attention to, and support, a number of specific recommendations from the Commissioner for modifying the confidentiality regime in ICGS cases, in ways which do not challenge "the importance of confidentiality within the ICGS in order to protect the vulnerable and encourage victims to come forward".<sup>111</sup>

128. We have considered the extent to which the need for confidentiality (whether or not the House accepts the proposals in our June 2020 Report) should be taken into account in the imposition of sanctions.

**129. With regard to non-ICGS sanctions, we do not seek any changes to existing arrangements: such sanctions will continue to be on the public record.**

130. With regard to ICGS sanctions the situation is more complicated. The Clerk of the House has pointed out that:

there are sanctions, such as the temporary barring from a catering outlet, which would have to become reasonably well-known as for operational purposes quite a large number of people would need to know in order to enforce the sanction. Denial of access to bars and catering outlets would require the staff working in those areas to know, including in some cases Doorkeepers and security personnel, and an alteration of service in the Vote Office would require relevant staff there to be aware that papers should not be issued directly to a particular Member at Vote Office outlets.<sup>112</sup>

108 [Independent Complaints and Grievance Scheme Delivery Report \(July 2018\)](#), pp 22–23

109 [Votes and Proceedings, 19 July 2018](#)

110 [Dame Laura Cox DBE, The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report](#), para 296

111 *Ibid.*

112 [SCT0005 \(Dr John Benger, Clerk of the House of Commons\)](#)

131. The Clerk of the House undertakes that “the House Service would not proactively publish information about such sanctions unless the House or a suitably mandated committee of the House decided otherwise” (though he also notes that “it is perhaps sadly inevitable that in some cases the fact of a sanction being imposed would leak to the media”).<sup>113</sup>

132. It is not possible for a Member to be suspended or expelled, or removed from membership of a select committee, without the fact of the sanction and the Member’s identity being known. However, the House’s decision, in setting up the Independent Expert Panel on 23 June 2020, that the question on any request from the Panel for a Member to be suspended or expelled should be taken without debate, means that in such cases any information published about the individual case will be confined to what the Panel sees fit to say in its report to the House.

*133. While this will be a matter for the Commissioner or the Panel to decide, our suggestion is that, in imposing a sanction in any ICGS case, the presumption should be that the matter remains confidential unless the Commissioner or Panel see reason to make it public, for instance because it would be impossible to impose the sanction effectively while keeping it confidential. In the latter case, the extent to which public knowledge of the sanction could be detrimental to the interests of the complainant should be taken into account as a factor in deciding whether (and, if so, how) to impose the sanction.*

## Appeals

134. The House has now approved an appeal structure for ICGS cases which will differ from the arrangements in non-ICGS cases.<sup>114</sup> In ICGS cases, appeals can be made against the findings of, or a sanction imposed by, a sub-panel.<sup>115</sup> Any appeal will be heard by another sub-panel, the membership of which would not overlap with the sub-panel who made the original decision. In an ICGS case involving a Member, the Panel will hear appeals against the decision of the Commissioner on both findings and sanctions. The Chair of the Panel is empowered to establish the appeals procedure within this framework.<sup>116</sup>

135. The introduction of a formal appeals system in ICGS cases will mean that there is a difference in process to non-ICGS cases, where there is no formally constituted appeals system. We note, however, that even in non-ICGS cases the existing processes contain some elements of appeal: for example, if a Member does not accept the findings of the Commissioner, then their case is referred to our Committee to decide whether to uphold the Commissioner’s finding (as well as the appropriate sanction in the case of a breach) and this is in effect an appeal from the Commissioner to the Committee.

**136. We have proposed that, as envisaged by the Delivery Report, certain powers to impose sanctions in ICGS cases should be transferred to the Commissioner. Under the arrangements agreed by the House on 23 June 2020, the Member concerned will be entitled to appeal against such a sanction to the Panel. As we also propose that the**

113 [SCT0005 \(Dr John Benger, Clerk of the House of Commons\)](#)

114 Order of 23 June 2020: [Votes and Proceedings, 23 June 2020](#)

115 The Order of 23 June does not specify whether a complainant can appeal a sanction (for example, on the grounds that it is too lenient); in the House of Lords, it is explicitly provided that only a respondent can appeal a sanction, though both parties can appeal findings.

116 See Appendix 3.

Commissioner should exercise certain sanctioning powers in non-ICGS cases, it would be equitable for the Member concerned in those cases to have a right to appeal against such a sanction to the Committee. *We recommend that the House approve the principle of these appeal arrangements. A framework for appeals against sanctions will then be drawn up by the Panel and the Committee respectively.*

137. Our predecessors' March 2019 Report on an ICGS appeals framework is in the public domain and available for the Independent Expert Panel to make use of, if they choose to do so, in drawing up their own appeals framework.

## Conclusion

138. *We commend the proposals set out above to the House. Their implementation will require a resolution of the House accompanied by standing order changes. We hope that the Leader of the House will table the necessary motions for debate at any earlier opportunity. We will discuss with him the drafting of those motions in order to make good progress on this matter. It is important that the House is given an opportunity to take decisions as soon as possible, and at any event before the Independent Expert Panel commences its consideration of individual ICGS cases. We therefore hope that standing order changes could be considered no later than the first week in September.*

# Conclusions and recommendations

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## Introduction

1. This Report on sanctions, and our continuing review of the Code of Conduct, reflect our over-riding objectives: to promote simplicity, transparency and clarity, to ensure consistency between different codes, and to build a better shared understanding of the attitudes and behaviour the House wishes to promote. (Paragraph 9)

## The ICGS and sanctions

2. The House agreed on 23 June 2020 to set up an Independent Expert Panel to deal with ICGS complaints against Members. We hope the Panel can be appointed swiftly and that it will attract the very highest calibre of applicants, including several senior lawyers or retired judges experienced in handling similarly sensitive cases across the legal systems of the UK and in handling evidence. Following the House's decision to set up the Panel, and the attendant standing order changes, the Committee on Standards will not play any further role in relation to individual ICGS complaints, other than in respect of non-compliance with sanctions.<sup>117</sup> However, we hope that we can assist the House by putting forward for its approval a set of proposed changes to the sanctions regime for both ICGS and non-ICGS cases, to enable the incoming Panel to make decisions on sanctions in individual cases without delay. The proposed changes are set out in the final section of this Report. Once the Panel is up and running, it will be able to propose to the House any modifications to this new sanctions regime which it considers desirable (and might, in the interests of maintaining consistency within the House's sanctions systems, offer proposals to this Committee about modifications to non-ICGS sanctions if this were to be desirable to keep them in line with any changes to ICGS sanctions). (Paragraph 73)

## Proposals for the future (1): Consistency in imposing sanctions

3. Consistency in the way standards cases are dealt with is vital to public confidence in the system. The public expect fair, equal treatment for all Members and complainants regardless of their political party, their status or their seniority as a bare minimum of due process. Likewise a Member has the right to be dealt with no more severely or more leniently than another in a similar set of circumstances. Moreover consistency of approach is vital if we are to promote best practice and Members are to understand what is expected of them. This is not a simple matter, however. Fortunately, the Commissioner and Committee do not have a vast pool of cases from which to source precedents. Although there may be similarities, no two cases are identical and it is important that the Commissioner and Committee are able to consider aggravating

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<sup>117</sup> The House has amended the Code of Conduct to provide that non-compliance by a Member with a sanction imposed by the Panel "shall be treated as a breach of the Code"; such a breach could be referred by the Commissioner to the Committee on Standards. In such circumstances, the Committee would not in any way reopen the case itself, but would consider whether the alleged non-compliance was in breach of the Code and if so whether a sanction should be imposed or recommended for that breach. See [Votes and Proceedings, 23 June 2020, item 8](#).

and mitigating factors in determining the appropriate sanction. For these reasons it would be inappropriate to draw up a hard and fast tariff of sanctions lined up against particular types or severity of breach. (Paragraph 78)

4. That does not mean, however, that we should not have a clear structure of sanctions, together with a clear statement of how and in what circumstances the Commissioner and Committee would expect to impose them, plus a much clearer codification of how aggravating and mitigating factors will be considered. These have been successfully codified by other similar bodies. Members and the public rightly expect that there should be consistent application of sanctions, to avoid any suggestion that their application is arbitrary. We conclude that a codified list of aggravating and mitigating factors would be a helpful guide to our, and our successors', deliberations on individual cases. (Paragraph 79)
5. Drawing on the Committee's past conclusions in a range of cases, we propose to adopt the list of aggravating and mitigating factors set out in the table below. (Paragraph 80)
6. The list is not intended to be comprehensive and the factors are not listed in any particular order of priority. We will keep the list under review. In particular, we will give consideration to whether greater clarity could be achieved as to what might lead us to regard a case as sufficiently serious to merit (a) suspension and (b) suspension for more than 10 days (i.e. which triggers the recall process). (Paragraph 81)
7. We do not regard it as appropriate to make recommendations about aggravating and mitigating factors in ICGS cases. That will be a matter for the Independent Expert Panel when it comes into existence. (Paragraph 82)

### Proposals for the future (2): A new suite of sanctions

8. In drawing up the proposals set out in the next section of this Report, we have been mindful to ensure that they are compliant with the guidance from the Clerk of the House. We note especially the distinction the Clerk draws between sanctions which bar a Member from carrying out their core parliamentary duties and those which do not. It has always been accepted that some very serious sanctions will fall into the former category: a Member who is suspended, for instance, cannot take part in proceedings, which would bar them from tabling questions or amendments or taking part in formal select committee activities. We accept that barring a Member from carrying out any of their core parliamentary functions should be a sanction only to be imposed by an explicit decision of the House in the individual case. Under our proposals, suspension, like expulsion, will continue to be a sanction which only the House itself can impose. We also agree with the Clerk of the House's view that lesser sanctions, which do not bar Members from carrying out their core parliamentary duties, may be delegated by the House to the Committee, the Independent Expert Panel, or the Commissioner, and we make proposals below as to how this should be done. (Paragraph 86)
9. How much the House is prepared to delegate to a committee of the House, or even to non-Members, is not set in stone. Decisions delegated to the Committee on Standards are now shared with the lay members. Substantial powers to investigate

and to sanction have been delegated to the Commissioner. The House has also now agreed that powers to adjudicate appeals under the Independent Complaints and Grievance Scheme should rest with the new Independent Expert Panel, subject only to a final vote without debate in the House. If these changes remain credible, and are seen to rebuild staff and public confidence in the governance of the House of Commons, there may be a case for extending this principle of delegation, both in respect of the Commons Code of Conduct, and in respect of the seriousness of the sanctions being applied. We will keep this under consideration while we conclude our review of the Code of Conduct. (Paragraph 87)

10. We set out below in two tables, dealing respectively with ICGS and non-ICGS cases, a summary version of the expanded suite of sanctions we propose that the House adopts (in addition to current sanctions and rectification procedures). (Paragraph 88)
11. *We recommend that the House should give the Commissioner specific authority to be pro-active, where they see fit, in:*
  - a) *instigating informal discussions with a Member, by phone or email, to indicate their concern about the Member's reported attitude, behaviour or conduct; and*
  - b) *requiring a Member to attend a formal meeting at which the Commissioner would indicate their concern about the Member's reported attitude, behaviour or conduct, ask them to reflect on this, and offer access to appropriate individual coaching to promote positive attitudes and behaviour, and to identify negative ones. The Commissioner should also draw their attention to the possibility of a more formal investigation which would be published on conclusion. In this case a record would be kept on file for six months and then destroyed.* (Paragraph 97)
12. [The Commissioner and the Committee currently have the right to require Members in non-ICGS cases to correct erroneous or missing entries in the Register of Members' Financial Interests. Rectification requires a belated entry in the current Register in bold italic type with an appropriate explanatory note; a rectified entry remains in the Register in that form for 12 months.] We do not propose any change to this arrangement. (Paragraph 98)
13. *We recommend that the House authorise the Commissioner, and the Panel, to require Members to attend specified training or coaching sessions, and, if the Commissioner or Panel considers it appropriate, to enter into behaviour agreements, as a sanction in both ICGS and non-ICGS cases.* (Paragraph 102)
14. *It would be appropriate for equivalent forms of apology [apologies in writing to the Committee, to specified individuals, or to the House on a point of order or through a personal statement] to be available to the Commissioner (and the Panel) in ICGS cases. We do not presently propose any changes to the existing arrangements in non-ICGS cases under which (except in rectification cases) it is for the Committee rather than the Commissioner to require an apology as a sanction. We recognise that this will result in a disparity between the ICGS and non-ICGS sanctions regimes; we will keep this matter under consideration and will return to it in our forthcoming review of the Code of Conduct and the wider sanctions system.* (Paragraph 104)

15. [Both the Commissioner and the Committee have the power, in non-ICGS cases, to require a Member to repay public money that they have wrongfully claimed or to repay the cost of services or facilities wrongfully used.] We do not propose any change to this arrangement. (Paragraph 105)
16. *We recommend that the House should confer on the Commissioner power in ICGS cases to instruct the House authorities to withdraw services or access to facilities to Members, or their right to travel on committee business, as a sanction where the Commissioner has found them to have breached the Code of Conduct or the Behaviour Code, where the offending behaviour relates to the service, the select committee or the travel concerned, and as long as such action does not prevent a Member from taking part in proceedings in Parliament. The exercise of such power should distinguish where appropriate between the exclusion of a Member from a physical space such as the Library or Derby Gate, and the exclusion from a service to Members which could otherwise be accessed electronically or by telephone, such as the Library's research services which support Members in their work.* (Paragraph 112)
17. *If the Commissioner considers it appropriate that a Member should be banned from taking part in certain proceedings (for instance, a ban on select committee travel which might involve the taking of formal evidence), they should make a recommendation to this effect to the Panel. In those circumstances the Panel should be empowered to impose such a sanction on the Member.* (Paragraph 113)
18. *In non-ICGS cases we recommend that the House should confer similar powers to those set out in Paragraphs 112 and 113 above on the Committee.* (Paragraph 114)
19. *We further recommend that where a decision-making body (the Commissioner, Panel or Committee) is contemplating the withdrawal of services or facilities from a Member as a formal sanction, that body should, where possible and if it considers it appropriate, consult the relevant House authorities in advance to seek their advice on how the sanction can best be implemented in practical terms.* (Paragraph 115)
20. *We further recommend that any non-compliance by a Member with a sanction of this kind should be treated as a breach of the Code of Conduct, rendering them liable to a more severe sanction.* (Paragraph 116)
21. We emphasise that none of the above recommendations affects the power which undoubtedly exists for the House Service to impose restrictions of service upon Members where necessary as management actions and not as sanctions.” (Paragraph 117)
22. *Where the Commissioner feels that there has been a breach of the Code which expressly relates to membership of a select committee or an international parliamentary delegation, we believe that the Committee on Standards (or the Panel in ICGS cases) should be able to recommend to the House that a Member be discharged from a specified select committee or delegation, or be prohibited from being appointed to other select committees or delegations, either for a fixed period or for the remainder of the Parliament.* (Paragraph 118)
23. We will consider this [withholding salary without suspension] as a sanctioning option in future non-ICGS cases and draw this to the attention of the Panel as an

option in ICGS cases. In both ICGS and non-ICGS cases, it will be for the House itself to impose this sanction on the recommendation of the Panel or Committee. (Paragraph 120)

24. We do not propose any change to existing arrangements in relation to suspension and expulsion in non-ICGS cases. We note that the House's decisions on 23 June 2020 provide a mechanism for the Independent Expert Panel to seek the House's approval for suspension or expulsion of a Member in ICGS cases. (Paragraph 121)
25. *We reaffirm our support for that proposal [that the policy on confidentiality be changed] and hope the House will be given an early opportunity to decide on it.* (Paragraph 123)
26. With regard to non-ICGS sanctions, we do not seek any changes to existing arrangements: such sanctions will continue to be on the public record. (Paragraph 129)
27. *While this will be a matter for the Commissioner or the Panel to decide, our suggestion is that, in imposing a sanction in any ICGS case, the presumption should be that the matter remains confidential unless the Commissioner or Panel see reason to make it public, for instance because it would be impossible to impose the sanction effectively while keeping it confidential. In the latter case, the extent to which public knowledge of the sanction could be detrimental to the interests of the complainant should be taken into account as a factor in deciding whether (and, if so, how) to impose the sanction.* (Paragraph 133)
28. We have proposed that, as envisaged by the Delivery Report, certain powers to impose sanctions in ICGS cases should be transferred to the Commissioner. Under the arrangements agreed by the House on 23 June 2020, the Member concerned will be entitled to appeal against such a sanction to the Panel. As we also propose that the Commissioner should exercise certain sanctioning powers in non-ICGS cases, it would be equitable for the Member concerned in those cases to have a right to appeal against such a sanction to the Committee. *We recommend that the House approve the principle of these appeal arrangements. A framework for appeals against sanctions will then be drawn up by the Panel and the Committee respectively.* (Paragraph 136)
29. Our predecessors' March 2019 Report on an ICGS appeals framework is in the public domain and available for the Independent Expert Panel to make use of, if they choose to do so, in drawing up their own appeals framework. (Paragraph 137)
30. *We commend the proposals set out above to the House. Their implementation will require a resolution of the House accompanied by standing order changes. We hope that the Leader of the House will table the necessary motions for debate at any earlier opportunity. We will discuss with him the drafting of those motions in order to make good progress on this matter. It is important that the House is given an opportunity to take decisions as soon as possible, and at any event before the Independent Expert Panel commences its consideration of individual ICGS cases. We therefore hope that standing order changes could be considered no later than the first week in September.* (Paragraph 138)

# Appendix 1: Letter dated 2 May 2019 from Kathryn Stone OBE, Parliamentary Commissioner for Standards, to Kate Green MP, Chair of the Committee on Standards

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## Disciplinary sanctions for MPs

We have discussed extending the range of sanctions<sup>118</sup> available to me as Parliamentary Commissioner for Standards. I have set out on the table attached a draft list of what I consider to be useful and meaningful sanctions for Members who are found to be in breach of the Code of Conduct for MPs. These include breaches of the Behaviour Code, which would be considered under the Independent Complaints and Grievance Scheme. These sanctions are arranged in, approximately, ascending order of seriousness.

As you know, under the rectification procedure set out in Standing Order no 150 I am already able to rectify less serious breaches of the Rules of Conduct without recourse to the Committee. In these cases I require MPs to apologise and if appropriate to repay the costs of any parliamentary resources they have misused. The Commissioner has been able to rectify cases involving misuse of facilities in this way since 2005.

It is now proposed to extend the Commissioner's powers to enable me to impose sanctions in cases (also at the less serious end of the scale) brought under the Independent Complaints and Grievance Scheme (ICGS), without recourse to the Committee or the House. But these must still have the effect of providing sanction to the Member and a sense of fairness to the complainant. I would welcome the opportunity to discuss this further with, and to take advice from, the Committee on Standards.

I welcome the Committee's recent report on the appeals process in ICGS cases, and hope we can consider together how to promote this.

I look forward to hearing your views.

**Kathryn Stone OBE**

Parliamentary Commissioner for Standards

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<sup>118</sup> For ease of reference I have used the term "sanctions". The ICGS delivery report uses "remedies", "penalties" and "sanctions" interchangeably.

## Annex to PCS letter of 2 May 2019: Table of possible sanctions for MPs who have been found in breach of the Code of Conduct for MPs

Possible sanction or remedy <sup>119</sup>	Notes	Decision making body
Words of advice or warnings given by Parliamentary Commissioner for Standards or others	Warnings to remain active for twelve months	Parliamentary Commissioner for Standards
Requirement to attend training Training courses include: <ul style="list-style-type: none"> <li>Equality and Diversity</li> <li>Dignity in the workplace</li> <li>Good employer</li> <li>Anger Management</li> </ul> Parliamentary Commissioner for Standards to be able to require MP to attend other bespoke training or coaching as decided	Parliamentary Commissioner for Standards to receive report from provider of training on attendance and engagement of MP, and to follow up one year after training completed.	Parliamentary Commissioner for Standards
Letter of apology to complainant (ICGS only) or to Committee	Parliamentary Commissioner for Standards to approve text in ICGS cases	Parliamentary Commissioner for Standards
Apology on point of order or by personal statement (formal apology in the Chamber) which (in ICGS cases) might be in conjunction with letter of apology to complainant	Parliamentary Commissioner for Standards to approve text of letter  Committee on Standards to require personal statement apology	Parliamentary Commissioner for Standards/  Committee on Standards
Withdrawal of services / access from MP (not from office or constituents), for example exclusion from catering facilities or library Services. (Could be used in ICGS cases)	In conjunction with security team / catering staff / library staff  Parliamentary Commissioner for Standards to decide on length of exclusion	Parliamentary Commissioner for Standards

119 For ease of reference I have used the term "sanctions". The ICGS delivery report refers to "remedies", "penalties" and "sanctions".

Possible sanction or remedy <sup>119</sup>	Notes	Decision making body
MP not to be permitted to serve on Select Committee	Committee on Standards to decide on length of exclusion	Committee on Standards
MP not to be permitted to travel abroad on parliamentary business	Committee on Standards to decide on length of exclusion	Committee on Standards
MP to repay part or all of cost of investigation	Parliamentary Commissioner for Standards to decide/ advise on the sum to be repaid	Parliamentary Commissioner for Standards / Committee on Standards
MP to be suspended from service of the House, without pay		House of Commons, on recommendation from Committee on Standards
MP to be expelled		House of Commons, on recommendation from Committee on Standards

Sanctions available to the Commissioner would also be available to the Committee on Standards.

## Appendix 2: Standards & Privileges – recommended sanctions 1995–2020

### I: Recommendations on Penalties in Standards Cases

Member	Summary of offence	Recommendation
Mr Marcus Fysh (5th Report, Session 2019–21)	Failure to register change in interests within time limit; failure to register and declare non-pecuniary interests (unremunerated directorships); lack of co-operation with Commissioner and tone adopted towards her and Registrar	Apology by way of personal statement; written apology to Commissioner and Registrar, terms of which to be agreed with Chair
Conor Burns (4th Report, Session 2019–21)	Inappropriate use of House stationery to pursue private financial interests; intimidation of member of public through threat to raise matter in the House under protection of privilege	Suspension for seven days; letters of apology to Speaker and injured party
Greg Hands (3rd Report, Session 2019–21)	Inappropriate use of House stationery to send general update to constituents; inappropriate conduct in insisting on futile reference of case to the Committee	Apology by way of personal statement to be agreed by the Speaker
Kate Osamor (1st Report, Session 2019–21)	Inappropriate use of House stationery to write a letter to a court concerning the sentencing of her son; and using threatening language to a journalist	Apology in writing to the House through the Committee
Sir Henry Bellingham (2nd Report, Session 2019)	Errors in Register and failure to register in a timely manner, compounded by failure to take rectification action in a timely manner	Apology in writing to the House through the Committee
Keith Vaz (1st Report, Session 2019)	Breach of 2015 Code Para 16 (reputation of the House) by (a) showing disregard of the law and (b) failing to co-operate fully with the inquiry process	Six months' suspension; if ceases to be a Member, should not be eligible to be granted a former Member's pass
Mr Geoffrey Cox (8th Report, Session 2017–19)	Failed to register in a timely manner	Apology in writing to the House through the Committee
Boris Johnson – further report [7th Report, Session 2017–19]	Failed to register in a timely manner	Required to meet Registrar in person to receive briefing on obligations to register
Boris Johnson [4th Report, Session 2017–19]	Failed to register in a timely manner	Apology to House on point of order

Member	Summary of offence	Recommendation
Ian Paisley [3rd Report, Session 2017–19]	Failure to register and declare personal benefits received by himself and his family from foreign government; breach of ban on paid advocacy	30-day suspension and 30 days' loss of salary (motion agreed by House confirmed that these two sanctions were separate, as had been the Committee's intention)
Dame Margaret Hodge [1st Report, Session 2017–19]	Misuse of House facilities	Apology to House on point of order
Nigel Adams [3rd Report, Session 2016–17]	Failure to register and declare interest in select committee	Apology to House on point of order
Karl Turner [1R 2016–17]	Failure to declare interest in tabling PQs and debate	Apology to Committee in writing
Geoffrey Cox [2 R 2015–16]	Failure to register in a timely manner	Apology on the floor of the House
Patrick Mercer [11 R 2013–14]	<p>failed to register monies received for the provision of consultancy services;</p> <p>failed to deposit an agreement for the provision of services;</p> <p>failed to declare a relevant interest when tabling five parliamentary questions, when tabling an early-day motion, when making approaches to other Members, and at a meeting of a prospective All-Party Parliamentary Group; and</p> <p>tabled parliamentary questions and an early-day motion, and taken steps to establish an All-Party Parliamentary Group, at the request of paying clients</p>	Six month suspension
Maria Miller [10 R 2013–14]	Misuse of Parliamentary allowances between her election to Parliament in 2005 and April 2009.	Repayment of £5,800 and an apology to the House by personal statement
Nadine Dorries [4 R 2013–14]	Failure to register payments in respect of her appearance on I'm a Celebrity... Get Me Out of Here	Ordered to consult with the Commissioner in person about the registration of all payments received for work done and to make a personal apology to the House

Member	Summary of offence	Recommendation
Simon Hughes [3 R 2013–14]	Failed to register donations to his local party  Failed to declare 2 financial interests  Arranged a meeting that amounted to lobbying with reward	It was found that he did not lobby for reward. It was recommended that he apologise by personal statement to the House
Mr Denis MacShane [1R 2012–13]	Breached the Incidental Expenses Provision by submitting made up invoices to the House Finance department	12 month suspension
Dr Liam Fox [23 R 2010–12]	(1) Permitted friend to stay in second home for a year  (2) Used parliamentary office space for his charity	Written apology  Repay £3,000  (mitigating factor: House authorities aware of use of office and did not query)
Jack Dromey [22 R 2010–12]	(1) Failure to register in a timely manner;  (2) failure to declare interests	Apology by way of point of order  [in fact personal statement used]
John Healey [18th Report 2010–12]	Misuse of stationery for party uses  [might have been rectified]	Written apology
David Laws  Mr David Laws [15R 2010–11]	(1) Wrongly designating main home  (2) Renting from a partner forbidden since June 2006;  (3) Rent higher than market rent, and extra payments made for building work which should have been included;  (4) Telephony costs wrongly claimed	(1) Apology to House  (2) 7 sitting days suspension  (3) No demand for repayment, because more already repaid than outstanding amount – since some ACA would have been payable.
Alison Seabeck [12R 2010–12]	Failure to declare indirect interests.	Written apology.
Anthony Wright (former Member) [11R 2010–12]	(1) Accepted payment from owners of ACA-funded second home in exchange for giving up tenancy rights, but claims overall did not increase.  (2) Inadvertently claimed for five quarters of rent in one year.	(1) Mr Wright to apologise in writing and to pay House one fifth of sum received after tax (approx £3,000).  (2) Mr Wright to repay the money (£3,050).

Member	Summary of offence	Recommendation
Sir John Butterfill, Mr Stephen Byers, Ms Patricia Hewitt, Mr Geoff Hoon, Mr Richard Caborn and Mr Adam Ingram (all former Members)  [9R 2010–12]	(1) Mr Byers breached the Code by bringing the House and its Members generally into disrepute, but apologised.  (2) Mr Hoon breached the Code by bringing the House and its Members generally into disrepute, but did not apologise.  (3) Mr Caborn breached the Code by failing to declare a financial interest in a meeting with a public official.  Allegations against Sir John Butterfill and Ms Hewitt not upheld.	(1) Mr Byers to lose his entitlement to a former Member's pass for 2 years.  (2) Mr Hoon to apologise in writing and lose his entitlement to a former Member's pass for 5 years.  (3) Mr Caborn to apologise in writing and lose his entitlement to a former Member's pass for 6 months.
Lord Knight of Weymouth (former Member)  [8R 2010–12]	Claimed from communications expenditure for purchase and running costs of a high-capacity printer which was also used by his local party.	Lord Knight to repay £3,620 (half the sums paid to him).
Mr Andrew Mackay and Ms Julie Kirkbride (former Members)  [5R 2010–12]	Mr Mackay wrongly designated his main home and his claims were not beyond reproach. Complaint against Ms Kirkbride not upheld.	Mr Mackay to apologise in writing (he had already repaid a substantial sum and had lost his seat).
Bill Wiggin  [3R 2010–12]	(1) wrongly designated his main home  (2) overclaimed from ACA for Council Tax  (3) claimed for telephone and maintenance costs he did not incur	(1) written apology  (2) repay £285  (3) written apology and repay £4,009 (half the costs he was paid)
Shahid Malik (former Member)  [2R 2010–12]	Claimed for cost of insuring his wife's engagement ring when it was at his second home.	Written apology (he had already repaid the cost of the additional insurance premium).
Jim Fitzpatrick  [1R 2010–12]	Charged expenditure on correspondence to the wrong allowance.	Written apology and repay £557 (case aggravated by Mr Fitzpatrick spinning it out beyond the general election).
Mr David Curry  [12R 2009–10]	(1) Claimed ACA in respect of a home he very rarely stayed at overnight.  (2) Wrongly designated his main home for a period of over a year.  (3) Failed to deposit a properly drawn-up agreement re other employment.	(1) Mr Curry to repay £28,000 and to give written apology  (2) and (3) Mr Curry to give written apology

Member	Summary of offence	Recommendation
John Barrett, Sir Alan Beith, Sir Menzies Campbell, Sandra Gidley, Paul Holmes and Richard Younger-Ross  [11R 2009–10]	JB, SG, PH and RY-R accepted payments from owners of ACA-funded second home in exchange for giving up tenancy rights, in cases of JB and RY-R leading to higher claims.  AB and MC accepted smaller payments in exchange for personal succession rights.	JB and RY-R to pay House half of sum received after tax. SG and PH to pay a quarter of sum received after tax. All four to apologise in writing.  No action required of AB and MC.
Alan Keen and Ann Keen  [10R 2009–10]	Claimed for second home when main home was unusable due to building works.	Mr and Mrs Keen to repay £1,500 of allowances received.
Mrs Anne Main  [8R 2009–10]	(1) Received a personal benefit by allowing her adult daughter to stay free in her ACA-funded second home.  (2) Claimed for food while at Westminster.	(1) Mrs Main to repay £5,000 (one seventh of total, abated because of poor guidance).  (2) Mrs Main to repay £2,100.  Mrs Main to apologise in writing.
Harry Cohen  [7R 2009–10]	Designated as his main home a house that was let for 6-month periods and claimed over £60,000 to which he was not entitled.	Mr Cohen to apologise on floor of House and his Resettlement Grant to be withheld in full.
Mr George Osborne  [6R 2009–10]	Claimed against ACA for costs incurred before being elected and for repairs added to mortgage (not allowed pre-06).	Mr Osborne to repay a further £1,666 (he had already repaid £270).
Mr Brian Binley  [5R 2009–10]	Claimed against ACA for cost of renting a flat from a company he and his wife part-owned.	Mr Binley to apologise unequivocally in writing and to repay £1,500. (Two 'significant' mitigating factors: DR failed to act and public purse did not lose out).
Mr Jeremy Hunt  [4R 2009–10]	Subsidised his party agent's living costs through ACA claims.	Mr Hunt to apologise in writing and to repay £9,558.50 (half the sum claimed).
Stephen Byers  [3R 2009–10]	CA-funded newsletter contained political material.	Mr Byers to apologise in writing and to repay £500 (about one eighth).
David Tredinnick  [1R 2009–10]	CA-funded newsletter promoted local election candidates.	Mr Tredinnick to repay half the sum claimed, £1,945 (he had already apologised).

Member	Summary of offence	Recommendation
Mr Tony McNulty [10R 2008–09]	Subsidised his parents' living costs through ACA claims.	Mr McNulty to apologise to the House and to repay £13,837 (calculated as the difference between what he claimed and what he should have claimed).
Jacqui Smith [9R 2008–09]	(1) Wrongly designated her main home. (2) Wrongly claimed for pay-TV services.	(1) Ms Smith to apologise to House by personal statement.  (2) No penalty (sums claimed already repaid and "wholehearted" apology given).
Mrs Caroline Spelman [6R 2008–09]	Employed her nanny as a part-time administration assistant and paid her only for the latter role, effectively subsidising her employment as nanny.	Mrs Spelman to repay £9,600. (She also issued a statement apologising, although she was not required to).
Mr Derek Conway [3R 2008–09]	Employed his son Henry Conway as a part-time Research Assistant and paid him at more than appropriate rate for his experience and qualifications.	Mr Conway to repay £3757.83 and make a written apology. (This was later repeated orally on the floor of the House, during a debate on Members' allowances).
Peter Hain [2R 2008–09]	Reported £103,000 of donations to his Labour Party deputy leadership campaign late.	Mr Hain to make an apology on the floor of the House.
Ms Dari Taylor [18R 2007–08]	Misuse of parliamentary stationery and postage.	Ms Taylor to pay the House £500 and submit an unequivocal written apology.
Mark Hunter [16R 2007–08]	CA funded survey contained inappropriate material, survey circulated outside constituency and survey exploited for party political purposes.	Mr Hunter to repay £500
Ed Balls and Yvette Cooper [14R 2007–08]	Members had incorrectly identified their main home for the purposes of ACA claims on their second home. Complaint dismissed by the Commissioner.	[see also 15R, 2007–08—conclusions on general recommendations made by the Commissioner when reporting on the complaint against Ed Balls and Yvette Cooper.]
Sir Nicholas and Lady Winterton [12R 2007–08]	Claimed cost of rent from Additional Costs Allowance on flat, in which they were living, but had bought outright and put in Trust for their children. They also both acted as trustees.	No further claims to be paid from ACA in respect of rent on the property from 1 Sept 2008.

Member	Summary of offence	Recommendation
Mr Derek Conway [4R 2007–08]	Employed his son Freddie Conway as a part-time Research Assistant and paid him at substantially more than appropriate rate for the job he was employed to perform. No evidence that he performed any of tasks involved in job.  Mr Conway authorised bonus payments which exceeded limit set by the House.	Suspended for 10 Sitting days and apology to the House.  Repay overpaid bonus sum of £3,962.97, rising to £7161.05 if House unable to reclaim tax and National Insurance contribution and also to repay further £6,000.
Mr Sadiq Khan [2R 2007–08]	Party logo used in Communications Allowance funded Parliamentary newsletter no “proportionate and discreet”.	Repayment of £500 of sum claimed from Communications Allowance.
Mr Malcolm Bruce [2R 2007–08]	Parliamentary newsletter, funded through IEP, contained photographs promoting the interests of the Scottish Liberal Democrats.	Repayment of £500 of £2941.16 claimed from IEP .
Mr Elfyn Llwyd [1R 2007–08]	Content of Parliamentary Report inappropriate for a Communications Allowance-funded communication. Breached prohibition on using material for purpose of party campaigning.	Repayment of sum claimed from Communications Allowance.
Mr Adam Price [1R 2007–08]	Content of Parliamentary Report inappropriate for a Communications Allowance-funded communication. Breached prohibition on using material for purpose of party campaigning.	Repayment of sum claimed from Communications Allowance.
Mr Hywel Williams [1R 2007–08]	Content of Parliamentary Report inappropriate for a Communications Allowance-funded communication. Breached prohibition on using material for purpose of party campaigning.	Repayment of sum claimed from Communications Allowance.
Mr George Galloway [6R 2006–07]	Failure fully to register and declare interests; breach of advocacy rule.	Suspension for a period of 18 actual sitting days and apology to the House.
Mr Eric Illsley [15R 2005–06]	Misuse of House of Commons stationery in relation to local election canvassing.	Repayment of cost of stationery used.
Dr Desmond Turner [14R 2005–06]	Use of abusive language and attempt to intimidate an employee of Brighton & Hove City Council.	Full written apology to complainant and copy sent to Committee.

Member	Summary of offence	Recommendation
Mr George Galloway [7R, 2005–06]	Failure fully to register and declare interests.	Full registration of interests within 7 days of publication of Report.
Mr Tony Baldry [3R, 2005–06]	Failure fully to register and declare interests; breach of advocacy rule.	Personal statement.
Mr Jonathan Sayeed [5R, 2004–05]	Unfounded criticisms of factual accuracy of Third Report; inadequate apology; misuse of Parliamentary resources.	Personal statement (indefinite suspension if not made).
Mr Jonathan Sayeed [3R, 2004–05]	Failure to take adequate steps to prevent conflict of interest between responsibility as member and involvement with a private company, and other matters.	Suspend for two weeks and apologise to House.
Ms Diane Abbott [2R, 2003–04]	Failure to register income received from presenting a television programme.	Personal statement.
Mr Clive Betts [5R, 2002–03]	Copying an altered document when improper use of the copy might reasonably be anticipated.	Suspend for seven days.
Mr Henry McLeish (former Member) [4R, 2002–03]	Failure to declare interest; inappropriate OCA claims.	None. [Suspend for one week if he had still been a Member]
Mr Michael Trend [3R, 2002–03]	Claiming Additional Costs Allowance inappropriately.	Suspend for two weeks.
Mr Geoffrey Robinson [1R, 2001–02] [20R, 1997–98]	Failure to provide proper responses to Commissioner and Committee.	Suspend for one month. Personal statement.
Mr Keith Vaz [5R, 2001–02]	Misleading Commissioner and Committee, and other matters.	Suspend for one month.
Mr Roy Beggs [6R, 2000–01]	Failure to register interest.	Personal Statement.
Mr Tony Baldry [8R, 1999–2000]	Failure to disclose financial relationship when supporting honours recommendation.	Personal Statement.
Mr Ken Livingstone [7R, 1999–2000]	Failure to make comprehensive Register entry.	Personal Statement.
Mrs Teresa Gorman [5R, 1999–2000] [7R, 1998–99]	Misleading Commissioner and Committee, and other matters.	Suspend for one month. Personal Statement.

Member	Summary of offence	Recommendation
Mr Robert Wareing [5R & 6R, 1997–98]	Failure to declare a financial interest.	Suspend for five days

## II: Code breached, but no recommendation for further action

Member	Summary of offence
Stephen Pound [2R, 2019–21]	Inadvertent breach of rules relating to accepting payment for arranging functions on parliamentary estate, over a period of years; apology received by Committee and published in report, so no further action needed
Kevin Barron [2R, 2016–17]	Contracted for payment to charity in connection with hosting event in Commons
Simon Danczuk [7R 2014–15]	Failure to register interests on time
Sir Bob Russell [1R 2012–13]	Claimed rent for his constituency office from 2002–09 to 2009–10 when the accommodation was owned by a company in which he and a family member held shares
Mr Brian Binley [5R 2009–10]	Failure to register benefit received from rental arrangement.
Jacqui Smith [9R 2008–09]	Wrongly claimed under ACA for pay-TV services.
Mr Gordon Brown [5R 2008–09]	Sub-let part of an office paid for out of parliamentary allowances.
Jack Straw [1R 2008–09]	Reported £3000 donation to constituency event held in his honour 4 years late.
Sir Robert Smith [11R, 2007–08]	Part of Hansard quotation used in Parliamentary Report not appropriate for inclusion in IEP-funded publication.
Mr George Osborne [10R, 2007–08]	Failure to include in his entry in Register of Members' Interests details of donations made to Conservative Party and used by Party to support cost of running the office of the Shadow Chancellor of the Exchequer.
Nr Norman Baker [2R, 2007–08]	Parliamentary newsletter funded from IEP contained party-political material.
Mr Martin Salter and Mr Rob Wilson [8R, 2006–07]	Misuse of Parliamentary stationery and misuse of Parliamentary allowances in relation to contents of reports circulated to constituents.
Mr Gregory Campbell [7R, 2006–07]	Failure to declare interests at certain meetings of Northern Ireland Affairs Committee.
Mr Julian Brazier [4R, 2006–07]	Misuse of Parliamentary dining facilities.

Member	Summary of offence
26 Members [3R, 2006–07]	Complaints about alleged misuse of Parliamentary dining facilities.
Mr David Cameron [2R, 2006–07]	Misuse of House facilities for party fund-raising.
Nadine Dorries [12R, 2005–06]	Misuse of Parliamentary stationery.
Mr Michael Foster (Worcester) [10R, 2005–06]	Misuse of Parliamentary stationery.
Mr Mark Lancaster [8R, 2005–06]	Misuse of Parliamentary stationery.
Mr John Horam [2R, 2005–06]	Failure to register donations to local association which he had personally solicited.
Mr David Blunkett [2R, 2004–05]	Misuse of travel allowances.
Mr Anthony Steen [1R, 2004–05]	IEP funded publication included material of a party political nature.
Mr John Spellar [3R, 2003–04]	Failure to register benefit from a trade union.
Mr Nigel Griffiths [7R, 2001–02]	Use of constituency office for party political purposes without informing Fees Office, and related matters.
Five Members [8R, 2000–01]	Minor and inadvertent failures to declare interests.
Mr William Hague [4R, 2000–01]	Inaccurate Register entry.
Mr Frank Roy [1R, 2000–01]	Betting on election of Speaker.
Mr Robert Sheldon [17R, 1999–2000]	Failure to declare certain interests.
Frank Cook [14R, 1999–2000]	Failure to register overseas visits.
Sir Michael Spicer [13R, 1999–2000]	Failure to declare a registered interest.
Mr William Hague [4R, 1999–2000]	Failure to register benefit.
Dr Marjorie Mowlam [13R, 1998–99]	Failure to register donation.

Member	Summary of offence
Mr Peter Mandelson [9R, 1998–99]	Failure to register a loan from a fellow-Member.
Mr Edward Leigh [6R, 1998–99]	Failure to register sponsorship of a research assistant.
Sir Edward Heath [4R, 1998–99]	Retaining an interest removed from the Register.
Mr Frances Maude [3R, 1998–99]	Minor breach of advocacy rule.
Mr Tony Banks [17R, 1997–98]	Failure to declare interest in EDMs; breach of advocacy rule.
Mr Tony Blair [14R, 1997–98]	Failure to register visit where hospitality value exceeded threshold.
Sir David Steel [12R, 1997–98]	Failure to deposit employment agreement before providing services; failure to declare recent past services in relation to certain EDMs.
Mr Kenneth Clarke [3R, 1997–98]	Failure to register attendance at conference where hosts paid for accommodation.
Dr Charles Goodson-Wicks [7R, 1995–96]	Failure to declare interest when tabling a question.

## II-a Code not breached

Member	Summary of alleged offence	Committee comment
Sir Malcolm Rifkind and Mr Jack Straw [2R 2015–16]	Lobbying (Sir Malcolm Rifkind); use of parliamentary resources, declaration of interests and lobbying (Mr Jack Straw).	<p>The Committee recognises the role of past media “stings” in uncovering wrongdoing but draws attention to the importance of fair and accurate reporting. It says:</p> <p>“By selection and omission the coverage distorted the truth and misled the public as to what had actually taken place. The Commissioner rightly draws attention to the continuing debate around MPs’ external interests, and notes some of the complexities involved.”</p>

Member	Summary of alleged offence	Committee comment
Mr Peter Bone [2R 2014–15]	Claims made against the Additional Costs Allowance (ACA) for rent of a property which, contrary to the rules at the time (2005), was neither within 20 miles of Mr Bone’s constituency nor of the Palace of Westminster	Although the rules at the time did not allow Mr Bone to make claims on a property which was neither within 20 miles of his constituency nor of the Palace of Westminster, the Commissioner found that “there was no attempt to conceal in any way the location of the property [and there is] no evidence that Mr Bone has made any personal gain through that breach. This provides significant mitigation”
Peter Lilley [5R 2014–15]	Failure to declare a relevant financial interest in debates in Westminster Hall	Mr Lilley’s action in declaring his interest on other occasions demonstrates a willingness to declare when he judged it relevant. He has given his explanation as to why he did not think his interest was relevant to the debates in question. We do not think it would be fair to Mr Lilley to find him in breach of a rule which was not clear at the time he considered the matter.
Tim Yeo [5 R 2013–14]	Offered to make approaches to Ministers and/or servants of the Crown on behalf of a company in which he expected to have a financial interest; and  told the managing director of a company which was a subsidiary of a company in which he had a financial interest what to say when giving evidence to the Select Committee of which he was chair.	Media investigations can have a role to play in ensuring high standards of public conduct but we note that in this case Mr Yeo has broken no rules and the only misrepresentation has been that of the journalists themselves.

### III: Recommendations on Penalties in Privilege Cases

Committed by	Summary of offence	Recommendation
Dominic Cummings [1R 2017–19]	Refusal to obey order first by DCMS Committee and then by the House to give oral evidence	Admonishment by resolution of the House
Witnesses from News International [2R 2016–17]	Misleading evidence to CMS Committee: two found in contempt of the House	Admonishment by resolution of the House
Justin Tomlinson MP [1R 2016–17]	Leaking of draft committee report	Suspension for two days
The News of the World [14R 2010–12]	Phone Hacking of Member's mobile phones	Measures to implement the recommendations of the Joint Committee that the House should lose its powers of imprisonment and should be given a statutory power to fine offenders be included in the draft Privileges Bill
(1) Adrian Sanders MP  (2) Tom Smith (researcher to Adrian Sanders MP)  (3) Stephen Lotinga (Parliamentary Office of the Liberal Democrats) [7R 2008–09]	(1) Failure to ensure security of committee papers and failure in duty of care to staff.  (2) Unauthorised disclosure of select committee paper and misleading the Committee on Standards and Privileges.  (3) Unauthorised disclosure of select committee paper to a journalist.	(1) Apology on floor of the House.  (2) Withdrawal of parliamentary pass and network access for 28 days.  (3) Withdrawal of parliamentary pass and network access for 14 days.
Stephen Byers MP [6R 2005–06]	Providing inaccurate answer to a select committee and making an inaccurate statement to the House.	Personal statement. [6R 2005–06]
(1) Don Touhig MP  (2) Kali Mountford MP [10 & 11R 1998–99]	(1) As PPS in the relevant Department, asked for and obtained a copy of a committee's draft Report.  (2) As a member of the Committee, provided the copy of the draft Report.	(1) Personal statement and suspend for 3 days.  (2) Personal statement and suspend for 5 days.
Ernie Ross MP [8R 1998–99]	As a member of a committee, provided a copy of that committee's draft Report to the relevant Department.	Personal statement and suspend for 10 days.

#### IV: Breach of Privilege committed, but no recommendation for further action

Committed by	Summary of Offence
Sussex Police [1R 2013–14]	The issuing of a PIN notice to Mr Tim Loughton
Various [17R 2010–12]	Leaking of the 15th Report of Session 2010–12
Withers LLP [9R 2009–10]	Threatened action against Member if he repeated inside the House remarks made outside it. Withers LLP apologised before the Committee reported.
(1) Don Foster MP  (2) Alice Aitken (researcher to Don Foster MP)  [7R 2008–09]	(1) Failure in duty of care to staff.  (2) Unauthorised disclosure of select committee paper.

## Appendix 3: The Independent Expert Panel

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### The House's decisions

- (1) On 23 June 2020 the House made a series of decisions relating to the setting up of an Independent Expert Panel (IEP) to consider sanctions and appeals in Independent Complaints and Grievance Scheme (ICGS) cases. This supersedes the decision of the House on 19 July 2018 to entrust the Committee on Standards with that role, and implements the one outstanding recommendation in Dame Laura Cox's October 2018 report on bullying and harassment of House of Commons staff, viz. that "the process for determining complaints of bullying, harassment or sexual harassment brought by House staff against Members of Parliament will be an entirely independent process, in which Members of Parliament will play no part".<sup>120</sup>
- (2) The House agreed on 23 June to a resolution which reaffirms its support for the ICGS, accepts the House of Commons Commission's proposal for an expert panel, and "expects all Members of this House to cooperate with the Panel's work and comply with its findings".
- (3) The House agreed that four new Standing Orders should be made, dealing with (1) the Panel, its composition and chairing, (2) sub-panels of the Panel, (3) the appointment of Panel members, and (4) motions to be moved in the House to implement recommendations of the Panel. It also agreed to amendments to existing Standing Orders, removing the Standards Committee's responsibility to deal with individual cases, and conferring on the Parliamentary Commissioner for Standards the power to refer such cases to the Panel "where a sanction beyond her powers is contemplated, and to assist the Panel and its sub-panels in its work".
- (4) The House agreed to two amendments to the Code of Conduct, to provide that: (1) the application of the Code shall be a matter for the Panel "in relation to the determination of cases under the Independent Complaints and Grievance Scheme"; and (2) failure to comply with a sanction imposed by a sub-panel shall be treated as a breach of the Code.
- (5) The motions put forward by the Leader of the House provided that motions for sanction put to the House on behalf of a sub-panel would be debatable for up to an hour, but with severe constraints (set out in a further motion) on the scope of debate. In the event, the House agreed on division (by 243 votes to 238) to an amendment moved by the Committee Chair to require that ICGS sanctions motions be taken without debate, and the Leader accordingly did not move this further motion.

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<sup>120</sup> Dame Laura Cox DBE QC, *The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report*, published 15 October 2018

- (6) The full text of the motions agreed by the House is set out as an appendix to this paper. A link to an “explanatory paper” published by the House of Commons Commission before the 23 June debate is [here](#).

## The Panel and how it will operate

- (7) The Panel will have eight members, with a quorum of four. Its members will be appointed for up to six years on a non-renewable contract. They must not be Members or former Members of either House. They must be selected on the basis of a fair and open competition. They may only be dismissed by resolution of the House following a report from the House of Commons Commission.
- (8) The Panel’s functions will be: (1) to determine the appropriate sanction in ICGS cases referred to it by the Commissioner; (2) to hear appeals against the Commissioner’s decisions in ICGS cases involving Members; (3) to hear appeals against sanctions imposed in ICGS cases referred by the Commissioner; and (4) to report to the House when it chooses to on the operation of the ICGS insofar as it relates to Members.
- (9) References to the Panel will be made in respect of function (1) above by the Commissioner, in respect of function (2) by either the complainant or the respondent/responder, and in respect of function (3) by the respondent/responder only.<sup>121</sup>
- (10) Function (2) above refers to appeals against the Commissioner’s decisions in ICGS cases involving Members. The grounds for these appeals are not specified. It is to be assumed that, unless the House makes further provision in this area, the grounds will be as set out in the Committee’s March 2019 report on ICGS appeals, that is: i) the investigation or decision-making was procedurally flawed, or ii) significant new evidence has become available.<sup>122</sup>
- (11) Function (3) above involves appeals against sanctions imposed under function (1) above. In order that the Panel should not be put in the position of hearing appeals against its own decisions, it is envisaged that its work on individual cases will be conducted by sub-panels. In the event of an appeal against a sub-panel’s decision, a new sub-panel will be set up to hear the appeal, with a membership that does not overlap with that of the sub-panel appealed against.
- (12) A sub-panel will consist of three members, with a quorum of three. It will have the power to refer a case back to the Commissioner for further investigation and to report its findings in a case to the Chair of the Panel.
- (13) The Panel may elect its own Chair. The Chair will be responsible for appointing members of sub-panels, and reporting sub-panel reports to the House (via the Clerk of the House). The Chair will also be required to ensure compliance with

121 The July 2018 Delivery Report defines “respondent” as “an individual who is accused of bullying or harassment” (p 50, para 3.2) and “responder” as “an individual who is accused of sexual misconduct by a member of the Parliamentary Community or a visitor to Parliament/a constituency office” (p 76, section 7). It is not clear what distinction was meant by the employment of two separate terms.

122 Committee on Standards, Sixth Report of Session 2017–19, The Committee’s role in ICGS appeals (HC 1976), para 13. The July 2018 Delivery Report’s comments on appeals are cited in the Committee’s report, para 8.

the House's standing orders; to report cases of non-compliance by Members with a sub-panel's recommendations to the Commissioner; and to arrange for publication of an annual report on the Panel's work.

- (14) The Panel will have similar powers to the Standards Committee in regard to the right to order a Member's attendance, require the production of papers, and appoint legal or specialist advisers.
- (15) Recommendations for sanctions that can only be imposed by the House will put to the House by a member of the House of Commons Commission, and will be decided without debate.
- (16) It will be noted that the system outlined above envisages that the great bulk of the work of the Panel will be conducted either by the Chair or the sub-panels. It may therefore be the case that the Panel itself will meet very infrequently.
- (17) Recruitment of Panel members will now commence and it is hoped they will be in place by the autumn.

Committee on Standards

2 July 2020

## Annex to Appendix 3: The House's decisions on 23 June 2020

### *Independent determination of complaints of bullying and harassment*

Resolved, That this House reaffirms its commitment to the Independent Complaints and Grievance Scheme (ICGS) and to tackling bullying, harassment and sexual misconduct on the part of anyone who is or was a member of the parliamentary community; accepts the recommendation in the report by Dame Laura Cox QC on The Bullying and Harassment of House of Commons Staff that complaints against Members should be determined by an independent body; agrees with the proposal brought forward by the House of Commons Commission to implement this recommendation; accordingly agrees to the establishment of an independent panel of experts which shall operate in accordance with the principles of fairness, transparency and natural justice; and expects all Members of this House to cooperate with the Panel's work and comply with its decisions.

### *Independent Expert Panel*

*Ordered*, That the following Standing Orders, amendments to standing orders and amendments to the Code of Conduct be made:

#### *A. Independent Expert Panel*

- (1) There shall be a Panel, to be known as the Independent Expert Panel for the Independent Complaints and Grievance Scheme (the "ICGS"), whose members shall be appointed by the House in accordance with Standing Order (Appointment of Independent Expert Panel Members).
- (2) The Panel shall consist of eight members, of whom a quorum shall be four.
- (3) The functions of the Panel shall be:
  - (a) to determine the appropriate sanction in ICGS cases referred to it by the Parliamentary Commissioner on Standards;
  - (b) to hear appeals against the decisions of the Parliamentary Commissioner for Standards in respect of ICGS cases involving Members of this House;
  - (c) to hear appeals against a sanction imposed under paragraph (a);
  - (d) to report from time to time, through the Clerk of the House, on the operation of the ICGS as it relates to Members of this House.
- (4) The Panel may elect its own Chair.
- (5) The responsibilities of the Chair shall include:
  - (a) ensuring that the Panel and its sub-panels comply with the provisions of the relevant resolutions and standing orders of this House;
  - (b) the appointment of sub-panels to consider individual cases;

(c) co-ordinating the work of the Panel with that of the Parliamentary Commissioner for Standards;

(d) referring any report from a sub-panel which determines a sanction that can only be imposed by the House to the Clerk of the House who shall lay it upon the Table of the House;

(e) informing the parties concerned of the outcome of any other case reported to the Chair by a sub-panel and ensuring compliance as appropriate with its recommendations;

(f) establishing the procedure for an appeal against the findings or determination of a sub-panel in cases referred under (3)(a) above;

(g) reporting to the Parliamentary Commissioner for Standards any case of non-compliance under sub-paragraph (e) above by a Member of this House;

(h) ensuring publication of an Annual Report on the functioning of the Panel and its sub-panels by referring the report to the Clerk of the House for laying on the Table.

(6) The Panel and any sub-panel shall have power

(a) to sit notwithstanding any adjournment of the House;

(b) to order the attendance of any Member before it and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of the Commissioner, be laid before it;

(c) to appoint legal advisers, and to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the Panel's order of reference.

### *B. Independent Expert Panel: Sub-panels*

(1) Cases referred to the Independent Expert Panel under Standing Order (Independent Expert Panel) shall be considered by a sub-panel appointed under paragraph (5)(b) of that order.

(2) A sub-panel shall consist of three members of the Panel and shall have a quorum of three.

(3) Sub-panels shall sit in private.

(4) A sub-panel may request the Parliamentary Commissioner for Standards to conduct further investigations in respect of a case referred to it and may specify the matters to be covered in that investigation.

(5) In respect of each case referred to it, a sub-panel shall make a report of its findings to the Chair of the Panel.

(6) Where an appeal is made against a finding or determination of a sanction by a sub-panel, a new sub-panel shall be established to hear that appeal. No member shall be eligible to hear an appeal against the decision of a sub-panel on which they have served.

### *C. Appointment of Independent Expert Panel Members*

(1) Members of the Independent Expert Panel shall be appointed by a resolution of the House on a motion made under the provisions of this order and shall remain as members in accordance with the provisions of this order.

(2) The period of appointment of each member shall be specified in the resolution of the House for appointment and shall not exceed six years. The appointment of a member is not terminated by any dissolution of Parliament.

(3) No person who has once been a member may be appointed for a further term.

(4) No person may be appointed as a member if that person is or has been a Member of this House or a Member of the House of Lords; and any person so appointed shall cease to be a member upon becoming a Member of this House or of the House of Lords.

(5) No person may be appointed as a member unless that person has been selected on the basis of a fair and open competition.

(6) A person appointed as a member may resign as a member by giving notice to the House of Commons Commission.

(7) A person appointed as a member shall be dismissed from that position only following a resolution of the House, after the House of Commons Commission has reported that it is satisfied that the person should cease to be a member; and any such report shall include a statement of the Commission's reasons for its conclusion.

(8) No motion may be made under the provisions of this order unless—

(a) notice of the motion has been given at least two sitting days previously, and

(b) the motion is made on behalf of the House of Commons Commission by a Member of the Commission.

(9) The Speaker shall put the questions necessary to dispose of proceedings on motions made under the provisions of this order not later than one hour after the commencement of those proceedings.

(10) Business to which this order applies may be proceeded with at any hour, though opposed.

### *D. Motions consequent on the ICGS*

(1) A motion may be moved by a member of the House of Commons Commission to implement a sanction in respect of an individual ICGS case determined by a sub-panel of the Independent Expert Panel.

(2) The Speaker shall put the questions necessary to dispose of proceedings on a motion under paragraph (1) of this order forthwith.

(3) Business under this order may be proceeded with until any hour, though opposed.

### *Amendments to other Standing Orders*

(1) Standing Order No 149 (Committee on Standards)

Paragraph (1)(a): after “Standards”, insert “except in relation to the conduct of individual cases under the Independent Complaints and Grievance Scheme”.

(2) Standing Order No 150 (Parliamentary Commissioner for Standards)

Leave out paragraph (2)(f) and insert: “(2) (f) to oversee investigations and make findings in cases against Members under the Independent Complaints and Grievance Scheme; to refer such cases to the Independent Panel of Experts where a sanction beyond her powers is contemplated; and to assist the Panel and its sub-panels in its work.”.

Delete paragraph (4)(c).

(3) Standing Order No 41A (Deferred divisions)

Paragraph (2)(d): at end of sub-paragraph 5, delete “and” and insert: “(vi) paragraph 1 of Standing Order (Motions consequent on the ICGS); and”.

### *Amendments to the Code of Conduct*

In the Code of Conduct for Members of Parliament (HC (2017–19) 1882):

(1) in paragraph 19, at end add “and for the Independent Expert Panel acting in accordance with Standing Order (Independent Expert Panel) in relation to the determination of cases under the Independent Complaints and Grievance Scheme.”.

(2) in paragraph 21, at end add “Failure to comply with a sanction imposed by a sub-panel of the Independent Expert Panel shall be treated as a breach of the Code.”

# Formal minutes

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**Tuesday 14 July 2020**

Virtual meeting

Members present:

Chris Bryant, in the Chair

Tammy Banks	Mark Fletcher
Jane Burgess	Sir Bernard Jenkin
Andy Carter	Anne McLaughlin
Alberto Costa	Dr Arun Midha
Rita Dexter	Paul Thorogood
Chris Elmore	

Draft report (*Sanctions in respect of the conduct of Members*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 138 read and agreed to.

Three papers were appended to the Report.

*Resolved*, That the Report be the Seventh Report of the Committee to the House.

None of the lay members present wished to submit an opinion on the Report (Standing Order No. 149 (8)).

*Ordered*, That the Chair make the Report to the House.

Written evidence was ordered to be reported to the House for printing with the Report.

*Ordered*, That embargoed copies of the Report be made available in accordance with Standing Order No. 134.

[The Committee adjourned.]

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Tuesday 25 June 2019

**Ken Gall**, President, House of Commons Trade Union Side; **Dave Penman**, General Secretary, FDA

[Q1-50](#)

### Tuesday 09 July 2019

**Liz Bates**, Westminster Correspondent, Yorkshire Post; **Kate McCann**, Political Correspondent, Sky News; **Rajeev Syal**, Whitehall Correspondent, Guardian Newspapers

[Q51-90](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

SCT numbers are generated by the evidence processing system and so may not be complete.

- 1 Committee on Standards in Public Life ([SCT0002](#))
- 2 Clerk of the House, House of Commons ([SCT0005](#))
- 3 House of Commons Trade Union Side ([SCT0003](#))
- 4 House of Commons Trade Union Side (supplementary evidence) ([SCT0004](#))
- 5 Independent Parliamentary Standards Authority ([SCT0007](#))
- 6 Northern Ireland Assembly ([SCT0009](#))
- 7 Senedd Cymru / Welsh Parliament ([SCT0008](#))
- 8 Scottish Parliament ([SCT0006](#))

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page of the Committee's website](#). The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2019–21

First Report	Kate Osamor	HC 210
Second Report	Stephen Pound	HC 209
Third Report	Greg Hands	HC 211
Fourth Report	Conor Burns	HC 212
Fifth Report	Mr Marcus Fysh	HC 213
Sixth Report	Confidentiality in the House's standards system	HC 474