

HOUSE OF COMMONS COMMISSION

Precautionary exclusion of MPs: consultation paper

Introduction

1. The House of Commons Commission discussed options for dealing with risks relating to passholders facing accusations of sexual misconduct being present on the estate in meetings of 13 June, 20 July and 14 November 2022, in light of a number of high-profile cases involving Members of Parliament.
2. On 14 November 2022, the House of Commons Commission agreed: **to launch a consultation on excluding Members charged with violent or sexual offences from the Parliamentary estate until any such cases are concluded, noting it would be for the whole House to ultimately decide on any such power. The Commission also agreed that the restriction should apply to Parliamentary-funded travel.**
3. In coming to its position on the issue of precautionary exclusion, the Commission balanced the fundamental constitutional right of Members to represent their constituents in Parliament and potential risks to excluded Members, with their duty of care to protect members of the Parliamentary community.

Current practice in the House of Commons

4. Where the police provide information to the House authorities about a Member who has been charged, which may include advice about managing risk within Parliament, there are currently limited options available to the House authorities to act (essentially those mitigations that are available under the restriction of service policy).
5. We would emphasise that these cases are rare, but to give some context, within the last six years there have been two Members charged with and convicted of sexual assault; and one convicted of harassment with threats of violence.
6. On several occasions, Members arrested or alleged to be under investigation for sexual offences have agreed voluntarily not to attend the estate. That voluntary commitment has not always been honoured. It has also been unclear whether it applies to Parliamentary-funded travel.
7. For other passholder groups, the House normally suspends its own staff on full pay when arrested or charged with a serious offence that might impact others on the estate. The House authorities may also remove the passes of other individuals working in Parliament, where they are informed of a criminal investigation by the individual, their employer, the police, or become aware via security vetting checks.

Practice in other institutions

8. It is usual in workplaces to take precautionary action where there is a reasonable suspicion that an employee has engaged in violent behaviour or sexual misconduct. Members are not employees and the parallels with employment situations are therefore limited. The position in relation to office holders (as opposed to employees) is arguably more pertinent. Examples include:
 - Section 108(4) of the Constitutional Reform Act provides that the Lord Chief Justice, with the agreement of the Lord Chancellor “may suspend a person from

a judicial office for any period during which any of the following applies – a. the person is subject to criminal proceedings ...”

- The Clergy Disciplinary Rules state at 61 (1) “Where a priest or deacon holding any preferment in a diocese is arrested on suspicion of committing a criminal offence the bishop may suspend the priest or deacon from exercising or performing without the leave of the bishop any right or duty of or incidental to the office of priest or deacon, as the case may be.”

The threshold for considering exclusion

9. The Commission considered the different options which would be available: exclusion when evidence of serious sexual or violent misconduct emerges via the media; when a complaint of serious sexual misconduct case is pursued through the ICGS; when an individual is arrested for a violent or sexual offence; or when an individual is charged with a violent or sexual offence.
10. In proposing **the highest of these thresholds (criminal charge)**, the Commission was mindful of:
 - The constitutional position of Members of Parliament;
 - The length of time it may take for sexual offences in particular to proceed from arrest to charge and then to court;
 - The rights of anonymity afforded to individuals prior to charge;
 - The need for fairness and for risk assessments to be made on the basis of a level of evidence which has been gathered and weighed by the police and CPS; and
 - The potential for vexatious complaints.

How the mechanism would work

11. It is proposed that the mechanism would work as follows:

Risk assessment

12. **Any decision to exclude a Member who is charged with a violent or sexual criminal offence would be taken on a case-by-case basis, informed by a risk assessment.**
13. The risk assessment would be undertaken by a small panel of senior officials, comprising Speaker’s Counsel, the Director of Security for Parliament, the Managing Director of the People and Culture Team and the Managing Director of the Select Committee Team, bound by confidentiality.
14. The assessment would be undertaken on the basis of information provided by the police and would consider any relevant matters, which would include:
 - Whether it is a relevant crime (i.e. is it violent or sexual in nature);
 - The nature of the alleged misconduct;
 - Whether there is any safeguarding concern (in which case the House safeguarding lead would also be consulted).

The risk assessment tool would be externally moderated prior to its introduction.

Decision

15. **The Speaker would appoint an adjudication panel, the membership of which would be put to the House for agreement at the start of the Parliament** (or in

the event that a panel member was no longer able to serve). In this Parliament, the Speaker is proposing that the membership comprise the Deputy Speaker (Chairman of Ways and Means), the Deputy Speaker (First Deputy Chairman of Ways and Means) and Shrinivas Honap, a non-executive member of the Commission, on the basis that:

- The Office of the Speaker is responsible for access and is politically neutral; however, the Speaker himself is often subject to representations from Members and may feel conflicted.
- The Chairman of Ways and Means is the chair of the Consultative Panel on Parliamentary Security.
- It is important to have independent input.

16. The panel would consider the recommendation from the risk assessment panel and be advised by the Office of Speaker's Counsel. The panel could turn down the recommendation if (a) the risk assessment process had not been followed or (b) the decision appeared perverse, based on the evidence.

17. The Speaker would implement the panel's decision.

Terms of exclusion

18. The Member would be **excluded from attending the Parliamentary estate but would be able to take part in any virtual activity**. Their pass would be suspended for the duration of their exclusion.

19. The Commission is particularly interested in the views of Members as to whether an excluded Member should be given a proxy vote, to enable their constituents to be represented in the House in this way.

20. The Member would be **excluded from any domestic or foreign travel funded by the House of Commons Estimate**. This includes select committee travel, delegations to the Parliamentary Assemblies of the Council of Europe, North Atlantic Treaty Organization and the Organization for Security and Co-operation in Europe, and inter-parliamentary group travel.¹

21. The Commission is very conscious of the gap in relation to constituency offices, but as these offices are not owned or secured by the House authorities, they do not control access to them. The same lack of remit applies to APPG travel, for example, under the current rules.

22. The decision would be reviewed in light of any new developments and at regular intervals, and the exclusion would be lifted if the charge were dropped.

How to submit your views

23. Views on the proposals in this paper are now invited from those who are Members of or work in or for the House of Commons.

¹ The four inter-parliamentary groups are the Commonwealth Parliamentary Association, the Inter-Parliamentary Union, the British American Parliamentary Group and the British Irish Parliamentary Association.

24. The views of Members are invited in particular on whether a Member subject to exclusion should be given a proxy vote.
25. The Commission is writing formally to committees of the House with a relevant remit, to the whips' offices and to the executive committees of the inter-Parliamentary groups to seek their views.
26. **The consultation period is open from 5 December until 31 January.** Please submit your views via consultationresponses@parliament.uk.
27. The Commission will consider consultation responses in early 2023. The Commission will not publish individual responses but may publish a summary, highlighting the views of committees on matters within their remit.