

**THE  
HOUSE OF COMMONS  
COMMISSION**

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**Amendments to the Independent  
Complaints and Grievance Scheme**

*Report presented to the House of Commons by the Speaker*

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## **Commissioners**

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The Speaker (Sir Lindsay Hoyle) (Chair), The Leader of the House of Commons (Jacob Rees-Mogg), Valerie Vaz, Sir Charles Walker, Dame Rosie Winterton, Pete Wishart, Dr John Benger (Clerk of the House), Ian Ailles (Director General), Jane McCall (External member) and Dr Rima Makarem (External member).

Secretary to the Commission: Marianne Cwynarski CBE  
Assistant Secretary: Robert Cope

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## HOUSE OF COMMONS COMMISSION

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### Amendments to the Independent Complaints and Grievance Scheme

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#### *Introduction*

1. The Independent Complaints and Grievance Scheme was introduced on 19 July 2018,<sup>1</sup> and was amended on 17 July 2019 to extend the scheme to complaints of non-recent misconduct.
2. In October 2020 Alison Stanley undertook a review of the operation of the Independent Complaints and Grievance Scheme. Her report was published on 22 February 2021,<sup>2</sup> and recommended a number of changes to the policies, processes and procedures.
3. At its meeting on 22 March 2021, the Commission endorsed the proposals for textual changes to the policies and procedures concerning complaints of bullying and harassment or sexual misconduct, in response to Alison Stanley’s report. It also endorsed other changes recommended by staff for clarification and updating of the documents. The revised policies and procedures are annexed to this report.
4. The House of Lords Conduct Committee considered and approved the amendments to the definitions of “bullying”, “harassment” and “sexual misconduct” on 11 March 2021. These will be reported to the House for agreement in due course.

#### *Amendments in response to the Review*

5. The following changes to the texts of the policies and procedures are proposed in response to the Review for approval by the House.
6. The policies have been separated from the procedures, and a number of changes have been made to the language used. These include deleting references to “a case to answer”, which is unhelpful for respondents who may feel that they are being judged before they have had a chance to be heard, and updating terminology to reflect the language actually used by the ICGS Helpline and the ICGS team (for example, altering references to “case manager” to refer to the “independent investigator”).
7. A difficulty identified in the Review is that some complainants are seeking to re-litigate matters that have been extensively considered already, either by an employment tribunal or by an internal disciplinary or grievance procedure. The procedures have been amended to enable the independent investigator to consider,

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1 Independent Complaints and Grievance Scheme Delivery Report

2 Independent Complaints & Grievance Scheme: Independent 18-month Review, Alison Stanley CBE

at the initial assessment stage, whether the complaint has already been fully and fairly considered in another context. If it has, this will be sufficient grounds for rejecting the complaint at the initial assessment stage.

8. The Review specifically recommended two changes to the bullying and harassment policy wording, to update the definition of “harassment” in the bullying and harassment policy to align more closely with that in the Equality Act 2010, and to include references to bullying connected with a person’s sex, or related to other protected characteristics. The inclusion of this wording also aligns the bullying and harassment policy with the sexual misconduct policy.
9. The policies have been amended to refer expressly to the factual accuracy check which takes place when the draft formal assessment report is sent to the parties. This stage was introduced as a matter of fairness to the parties some time after the scheme came into effect. However, the Review noted that the combination of the factual accuracy check and the right of the complainant to seek a review of the investigator’s findings (on the grounds of flawed procedure or substantial new evidence) had the effect of delaying some cases substantially. In accordance with the Review’s recommendation, the right to seek a review of the draft formal assessment has been removed, but the factual accuracy check remains available as a means for both parties to correct inaccuracies in the report. Further challenges to the investigator’s conclusions should be made through the decision-making body’s processes.
10. At present, there is no time limit on non-recent cases. That was felt to be important in the context of long-standing complaints that had not previously been addressed, but the Review suggested that the time has come to impose a cut-off date for bullying and harassment cases, although not in sexual misconduct cases.
11. The bullying and harassment policy has therefore been amended to specify that, from 28 April 2022, a complaint may not be brought more than one year after the incident, or the last of the incidents, complained of.

### ***Additional changes to the policies and procedures***

12. In addition to the changes specifically recommended by the Review and set out above, some further changes are proposed to the policies and procedures to improve their structure and clarify some points that have arisen in the course of their operation over the past two years.
13. Each policy has been amended to make clear that, although bullying, harassment and sexual misconduct are defined in the same way for all members of the Parliamentary community, the two Commissioners for Standards are responsible for overseeing investigations into the conduct of Parliamentarians, and therefore there are some procedural differences.
14. The two policies and procedures have been amended so that they are more closely aligned. There are some necessary differences between the sexual misconduct and bullying and harassment policies and procedures, resulting from the different nature

of the conduct complained of, but there were other differences in the drafting which were not necessary. For example, the bullying and harassment policy previously referred to the “complainant” and “respondent”, but the sexual misconduct policy referred to the “reporter” and “responder”. The documents have been amended so that in all cases they refer to the “complainant” and “respondent”.

15. The existing “procedure” documents have been shortened, and amended to make clear that they provide an outline only of the procedure, and that further detailed information on the different stages of the process is available from both the ICGS team and the relevant decision-making body. The existing Guides produced by the ICGS team will be updated, as will the procedure flow charts.
16. The drafting of the two policies has been updated so that it more clearly reflects the policy intention of the Commission and the House, when the resolution relating to non-recent cases was passed in July 2019, that it should be possible to complain of the conduct of any former member of the Parliamentary community, whether or not they hold a Parliamentary pass when the complaint is made. The policies have also been amended to make clear that a complaint may not be brought or continued against a respondent who has died.
17. The sexual misconduct procedure also includes a paragraph on victimisation which was not duplicated in the bullying and harassment procedure, making it clear that victimising a person for having brought a complaint under the ICGS Scheme would be treated as an aggravating factor in assessing the seriousness of the misconduct. An equivalent provision has now been added to the bullying and harassment procedure to remedy this inconsistency.
18. Both policies and procedures contained information on data protection which will be covered by privacy notices issued by the ICGS team, and therefore those provisions can be deleted.

### **Conclusion**

19. Overall, the proposed changes to the Scheme will improve the structure of the policies and procedures, and simplify, streamline and improve the operation of ICGS cases.

## ANNEX 1: Bullying and Harassment Policy

# Bullying and Harassment Policy

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## Independent Complaints and Grievance Scheme: Bullying and Harassment

### 1. Introduction and Aims

- 1.1 All members of the Parliamentary community are expected to treat others with dignity, courtesy and respect.
- 1.2 Our Behaviour Code, this policy, the Sexual Misconduct policy and the associated procedures and guidance created and amended from time to time by the Independent Complaints and Grievance Scheme team (the “ICGS team”), the Parliamentary Commissioner for Standards, the Independent Expert Panel and other decision-making bodies provide a framework for us to create a respectful and courteous working environment and to respond to any allegations of unacceptable behaviour promptly, fairly and effectively. Bullying and harassment are unacceptable in all circumstances.
- 1.3 The ICGS applies across the Parliamentary community.
  - In respect of members of the House of Lords and their staff, the ICGS is implemented via the House of Lords Code of Conduct.<sup>1</sup> Though the definitions of bullying and harassment set out in this policy are common to the Parliamentary community, the processes described in this policy and the associated procedures do not directly read across to the House of Lords Code of Conduct.
  - In respect of members of the House of Commons, this policy and the associated procedures apply with some modifications. The Parliamentary Commissioner for Standards has oversight of investigations of allegations of bullying and harassment by Members of Parliament. The definitions of bullying and harassment set out in this policy are common across the Parliamentary Community. Once the independent investigator’s initial assessment has been completed, the investigation will be overseen by the Commissioner in accordance with the Standing Orders of the House of Commons and with any agreement made between her and the ICGS team.
- 1.4 This policy relates specifically to bullying and harassment. It sets out who the policy applies to, the conduct covered by the policy and certain other important matters. Details of the procedures for investigation of a complaint under this policy may be obtained from the ICGS team. If an Independent Investigator recommends that a complaint should be upheld under this policy, the matter will be referred to the relevant decision-making body (the employer or another body, depending on the identity of the respondent). Different bodies will have, and use, their own internal policies and procedures to reach a decision.
- 1.5 Bullying and harassment can happen to anyone and can be carried out by anyone. They are both a cause and a consequence of inequality and power differences. Abuse of power will be a relevant consideration in deciding the seriousness of any complaint of bullying

and harassment. Additional factors which influence power dynamics include class and if a position of authority is held.

<sup>1</sup>The House of Lords Code of Conduct can be found here: [www.parliament.uk/hl-code](http://www.parliament.uk/hl-code)

- 1.6 The incidence and specific experience of bullying and harassment may be affected by a number of characteristics of those who are targeted, including the protected characteristics covered under the Equality Act 2010 (sex, race, disability, age, sexual orientation, religion and belief, marriage and civil partnership, pregnancy and maternity, and gender reassignment). Characteristics such as race, sex and sexuality can intersect with each other in ways that create specific issues (e.g. unwanted comments on an Asian colleague's hijab might be a situation where the protected characteristics of sex, race and ethnicity, and religion or belief would intersect).
- 1.7 The aims of this policy and the associated procedures are to:
  - Ensure that all members of the Parliamentary Community are aware of their responsibilities in relation to bullying and harassment;
  - Provide a fair, transparent and consistent framework for reporting, investigating and responding to allegations of bullying and harassment;
  - Ensure that information about sources of support is made available to anyone who experiences bullying or harassment or who is accused of bullying or harassment.

## **2. Definitions**

- 2.1 There are many definitions of bullying and harassment and both terms are often used interchangeably. The definition for harassment used in this policy reflects the definition set out in section 26 of the Equality Act 2010, although this policy is not limited to harassment connected with a protected characteristic under that Act. The definition of bullying is taken from ACAS guidance. These definitions will be used in determining whether any behaviour reported under this policy constitutes bullying or harassment.
- 2.2 All behaviour that constitutes bullying or harassment is a breach of the Behaviour Code. However, not all breaches of the Behaviour Code will constitute bullying or harassment.

### **What is bullying?**

- 2.3 Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour involving an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Power does not always mean being in a position of authority and can include both personal strength and the power to coerce through fear or intimidation.
- 2.4 Like harassment, bullying can take the form of physical, verbal and nonverbal conduct. Bullying behaviour may be in person, by telephone or in writing, including emails, texts or online communications such as social media. It may be persistent or an isolated incident and may manifest obviously or be hidden or insidious. Whether conduct constitutes bullying will depend on both the perception of the person experiencing the conduct and whether it is reasonable for that person to have perceived the conduct as bullying.

## 2.5 Elements of bullying may include, but are not limited to:

- Verbal abuse, such as shouting, swearing, threatening, insulting, being sarcastic towards, ridiculing or demeaning others, inappropriate nicknames or humiliating language;
- Abuse of a similar nature carried out in writing or electronically (including posters, graffiti, emails, messages, clips or images sent by mobile device or posted on the internet);
- Physical or psychological threats or actions towards an individual or their personal property;
- Practical jokes, initiation ceremonies or rituals;
- Overbearing or intimidating levels of supervision or micro-management, including preventing someone from undertaking their role or following agreed policies and procedures;
- Abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities or hours of work, or coercing someone to meet such expectations;
- Ostracising or excluding someone from meetings, communications, work events or social events;
- Sending, distributing or posting detrimental material about other people, including images, in any medium.

## What is harassment?

2.6 Harassment is any unwanted conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. All harassment, regardless of whether or not it relates to a protected characteristic, is covered by this policy.

2.7 There is a separate Sexual Misconduct policy and procedure for dealing with allegations of sexual misconduct (including sexual harassment). Further information about reporting incidents that are covered by both policies can be found in paragraph 2.17 of this policy.

2.8 Harassment may be persistent or an isolated incident and can be manifest, hidden or insidious. It may take place in person, by telephone or in writing, including emails, texts or online communications, including social media.

2.9 Harassment can be intentional or unintentional. It can occur where A engages in conduct which has the effect of violating B's dignity or creating an intimidating, hostile, degrading or offensive environment for B, even if A didn't intend this. Whether conduct constitutes harassment will depend on both B's perception and whether it is reasonable for B to have perceived A's conduct in that way.

- 2.10 A person may also be harassed even if they were not the intended 'target' of harassment. For example, a person may complain of harassment by jokes about a religious group that they do not belong to, if these jokes create an offensive environment for them.
- 2.11 Examples of harassment, other than sexual harassment, may include, but are not limited to:
- Sending or displaying offensive material in any format (including posters, graffiti, emails, messages, clips or images sent by mobile device or posted on the internet);
  - Mocking, mimicking, belittling or making jokes and comments about a person (or a group stereotype);
  - Use of unacceptable or inappropriate language or racial or other stereotypes (regardless of whether the complainant is in fact a member of the group stereotyped);
  - Deliberately holding meetings or social events in a location that is not accessible for an individual (by reason of disability, religious prohibitions or otherwise);
  - Using profanities that could have the effect of creating an offensive environment for a person to work in.

#### What does the law say about bullying and harassment?

- 2.12 In some cases, acts of bullying or harassment can be litigated through civil proceedings, in either an employment tribunal or county court.
- 2.13 Conduct that amounts to bullying and harassment can also sometimes amount to criminal offences, which can be tried in the criminal courts. Examples may include, but are not limited to:
- Physical assault;
  - Making violent or death threats;
  - Stalking;
  - Hate crimes.
- 2.14 Paragraphs 2.15 and 2.16 of this policy contain more information about how this policy deals with conduct that may amount to bullying or harassment and is also subject to a criminal investigation.

#### Criminal investigations

- 2.15 This policy relates to workplace misconduct. It is not intended for investigation of criminal offences.
- 2.16 Where someone has reported an alleged criminal offence to the police and has made a complaint under this policy concerning the same conduct, the investigation under this procedure may be paused, if appropriate, until the criminal investigation is complete. The ICGS helpline can provide information about sources of support to both

complainants and respondents involved in criminal investigations. However, no complainant is obliged to complain to the police.

## What is not covered by this policy?

### Sexual harassment

2.14 This policy does not cover complaints of sexual harassment, which is covered by the sexual misconduct policy. Where a person wishes to complain of conduct which they consider to be both bullying and/or harassment and sexual misconduct, the person may choose which policy to use. A complaint made under this policy may, if appropriate and with the complainant's consent, be transferred to the Sexual Misconduct procedure if a substantial sexual harassment element becomes apparent during the investigation. The Sexual Misconduct procedure includes access to specialist advice, so may be more appropriate in cases where sexual harassment comprises a substantial part of the complaint.

### Other workplace disagreements or disputes

2.15 Many workplace disagreements or disputes will not constitute bullying or harassment and therefore fall outside this policy. Examples include, but are not limited to, concerns or disputes about working practices and conditions or disagreements or conflicts between people working together. These should be dealt with informally or by using other workplace policies and procedures, such as an employer's grievance procedure, as appropriate.

2.16 As part of their role, managers should be able to issue reasonable instructions and expect them to be carried out; set and manage standards of performance; and use attendance, performance and disciplinary procedures. Legitimate actions by a manager will not constitute bullying or harassment in and of themselves (although the manner in which they are carried out may constitute bullying or harassment – see paragraphs 2.5 and 2.11). Similarly, investigation of a complaint under this policy will not in itself constitute bullying or harassment.

## 3. Terms used in this policy and the associated procedure

- **Complainant:** This is an individual who reports or makes a complaint of bullying or harassment through the ICGS helpline
- **Respondent:** This is an individual who is accused of bullying or harassment.
- **Report:** This is when a complainant reports an incident to the ICGS helpline.
- **Complaint:** This is when a complainant chooses to pursue their complaint through the ICGS team after reporting it to the helpline.
- **ICGS helpline:** This is the service for reporting incidents of alleged bullying or harassment. It is also a source of information, advice and support for complainants and respondents, and for anyone else who has experienced, witnessed or is aware of bullying, harassment or sexual misconduct. The helpline also retains confidential records and provides regular anonymised reports about the levels of helpline usage and the types of issues raised, to monitor the quality of the service and inform the development of awareness-raising campaigns and cultural change initiatives.

- **ICGS team:** This is the bicameral team which is responsible for managing the procedures under this policy if a complainant decides that they want to take further action in relation to an alleged incident of bullying and harassment (as opposed to using the helpline to report an incident or access support). The ICGS team also retains confidential records and provides regular reports about the levels of use and types of complaints investigated and resolved, to monitor the quality of the service and inform the development of awareness-raising campaigns and cultural change initiatives.
- **Independent Investigator:** Any formal complaint is allocated to an Independent Investigator, who is responsible for undertaking an initial assessment of the complaint to determine whether the allegation should progress to a formal assessment. They are also responsible for helping to broker an informal resolution between the complainant and respondent, where appropriate; or for undertaking a formal assessment of the complaint, based on gathering further evidence from those involved. Independent Investigators are not employees of either the House of Commons or House of Lords: they contract with the Houses and are selected for specialist expertise and training in resolving and investigating complaints of bullying and harassment.
- **Decision-making bodies:** These are the organisations which have responsibility for taking a decision if a complaint is upheld against a particular respondent. For example, this might be the respondent's employer, or the Parliamentary Commissioner for Standards (and/or the Independent Expert Panel) if the respondent is an MP. Decision-making bodies, and not the ICGS team, are also responsible for deciding and implementing appropriate actions and/or sanctions when a complaint is upheld.

#### 4. Scope

Who does this policy apply to, and who may make a complaint under it?

- 4.1 This policy applies to all acts of bullying and harassment by and against any member of the Parliamentary Community on the Parliamentary estate or elsewhere in connection with their Parliamentary activities.
- 4.2 For the purposes of this policy, the Parliamentary Community comprises all those who work for or with Parliament either on the Parliamentary Estate, in constituency offices or elsewhere in the course of their parliamentary work. This includes:
  - Members of Parliament (MPs) or Members of the House of Lords;
  - Employees of MPs or Lords or other people working for them, such as volunteers, people undertaking work experience or interns;
  - Employees of the House of Commons and Parliamentary Digital Service;
  - Employees of the House of Lords;
  - Employees of other Parliamentary organisations (for example, CPA UK, BGIPU, an All Party Parliamentary Group)

- Specialist Advisers and others supporting Parliamentary work, including people employed by political parties or collectively employed by MPs (e.g. PRU, PRS and Group staff);
- Members of the Press Gallery;
- Contractors, agency workers, inward secondees or interns to any of the relevant bodies above;
- Visitors to the Parliamentary Estate.

4.3 Under this policy, a person may report and make a complaint about bullying and harassment where both the complainant and the respondent were members of the Parliamentary Community at the time when the alleged bullying and harassment took place, whether or not they remain members of the Parliamentary Community at the point when the complaint is made (but a complaint will not be investigated after the death of the respondent).

4.4 The work of the Parliamentary Community is broad, and may involve office work, public facing work, travel and social events, as well as non-standard working hours. As a result, this policy applies to behaviour by members of the Parliamentary Community in any circumstances relating to their Parliamentary work, regardless of location.

#### How does this policy deal with multiple allegations of bullying or harassment?

4.5 Bullying or harassment may be:

- by an individual against an individual or against several people, or
- by several people against an individual or against several people.

4.6 This policy can be used to report and investigate any allegation of bullying or harassment on an individual or collective basis (e.g. where a group of people allege bullying and harassment by the same respondent). Where complaints are made collectively, all complainants must provide consent for their evidence to be included in the collective complaint. A complainant may still choose to make an individual complaint separately if they would prefer not to be part of a collective complaint.

4.7 Where someone makes a complaint against several people, this may be managed as a single investigation or as multiple separate investigations relating to each respondent. The ICGS team will decide in such a case whether to allocate the investigation to a single Independent Investigator or to more than one. In either event, the Independent Investigator will consider the case against each respondent on an individual basis when making their assessment of the evidence.

4.8 Where several complaints are made independently about one person, each of these will be managed on an individual basis, although the ICGS team may make provision for oversight of all the complaints to ensure that they are consistently treated, and evidence obtained from a witness in one complaint may be used, by agreement, for the purposes of another complaint. The decision-making body with responsibility for the respondent will respond to each report separately, but may also take into consideration previous findings when deciding on an appropriate course of action or sanctions.

## How does this policy work alongside other ways of reporting bullying and harassment?

- 4.9 This policy is not intended to affect the ability of any individual to report incidents of bullying or harassment directly to the police, their employer, an employment tribunal or a political party. It does not displace any legal or contractual remedy available to any person.
- 4.10 Where a complainant chooses to use another policy to make a complaint of bullying or harassment (for example, if a complaint relating to an MP is made to a political party), or where the complainant has previously brought a complaint of the same, or substantially the same, conduct through another policy or through legal proceedings, the ICGS team reserves the right not to investigate the same incident under this policy.
- 4.11 Where someone has reported an alleged criminal offence to the police and has made a complaint under this policy concerning the same facts, the circumstances of the case will be considered to determine whether it is appropriate to investigate the matter under this policy at the same time, or whether action under this policy should be paused until the criminal investigation is complete.
- 4.12 This policy does not affect safeguarding obligations for all members of the Parliamentary Community. If you are concerned about behaviour towards a child or vulnerable adult, you should report this to the Designated Safeguarding Lead, as outlined in the Safeguarding policy. In addition to decision-making bodies' own safeguarding procedures, the ICGS helpline, independent investigators and the ICGS team will also carry out risk assessments and have agreed escalation processes in cases where someone is at risk of harm that cannot be mitigated in another way.

## What about malicious or vexatious complaints of bullying or harassment?

- 4.13 We require all individuals involved in a complaint made under this policy to act with integrity and provide accurate information, since false accusations of bullying and harassment can have serious consequences.
- 4.14 If someone makes a complaint as a result of a genuine mistake or misunderstanding, this will not be a malicious or vexatious complaint. Likewise, if the outcome of an initial or formal assessment under this policy is a recommendation not to uphold the complaint (i.e. the conduct is not found to be bullying or harassment), it should be emphasised that this will not in itself mean the complaint will be regarded as malicious or vexatious.
- 4.15 For an investigation to indicate that a complaint may be malicious or vexatious, there would have to be evidence of manifestly false accusations and/or deliberate intent to discredit the respondent. Where the Independent Investigator finds that a complaint was malicious, vexatious or deliberately false, based on the evidence gathered by the Independent Investigator, the decision-making body for the complainant will be notified. They will then deal with the matter in accordance with their own policies and procedures, which may include disciplinary action or other sanctions.

## **5. *Victimisation***

- 5.1 Fear of victimisation is a major barrier that can prevent individuals from seeking support or resolution. Members of the Parliamentary Community are prohibited from engaging in any form of victimisation, revictimisation, or encouraging others to victimise someone who has made, or has supported someone else in making, a report/complaint or has cooperated in the investigation of a report/complaint.
- 5.2 If victimisation or retaliation are uncovered in the course of an investigation, they will be taken seriously.

## **6. *Timescales for reporting incidents of bullying or harassment***

### **When can I report an incident of bullying or harassment?**

- 6.1 It is always preferable to address issues of bullying or harassment as soon as they arise, so that they can be resolved as quickly as possible. As a general principle, reporting or making a complaint of bullying and harassment should be done as soon as is reasonable after the incident in question. This will ensure informal resolution (where appropriate) can be attempted as quickly as possible and will facilitate effective formal assessments (e.g. by gathering evidence and statements from those involved whilst the event is fresh in their minds).
- 6.2 There may be times when a complainant does not want to or feel able to make a report soon after an alleged incident or incidents of bullying or harassment. Where a lengthy period of time has elapsed between the most recent incident of alleged bullying or harassment and a report or complaint being made, as part of their initial assessment, the Independent Investigator will examine the nature of any evidence available to determine whether this is likely to be sufficient to proceed with a formal assessment. For example, in circumstances where there is no contemporaneous evidence of an incident taking place and/or where witnesses have since left the Parliamentary Community, it may be difficult to gather sufficient evidence to make a formal assessment of the complaint.
- 6.3 Until 28 April 2022, a complaint may be made of bullying or harassment regardless of when it took place. After that date, the complaint must be made within one year of the incident (or the last incident if there has been more than one).
- 6.4 If someone wishes to report a criminal offence or bring civil proceedings, there may be time limitations on those proceedings, depending on the nature of the case. Anyone considering such action should speak to the ICGS helpline, who will be able to offer advice about reporting criminal offences or bringing civil proceedings, including seeking independent legal advice, if appropriate.

## **7. *Factual accuracy checks***

- 7.1 Once the Independent Investigator has considered all the evidence and prepared a draft formal assessment report, a copy of the draft must be sent to the complainant and the respondent. This is an opportunity for both parties to check that facts and dates are correct and request corrections, raise concerns if relevant evidence has not been considered or relevant witnesses not interviewed, or raise other concerns about the process of the investigation. The parties will normally have 14 days to raise any issues.

The check is **not** an opportunity to challenge the Independent Investigator's reasoning or recommendations, unless they are unreasonable or perverse. If the ICGS team (or in the case of an MP the Parliamentary Commissioner for Standards) considers that there are significant errors or omissions in the report or concurs with the view that the findings are unreasonable or perverse, the report may be rejected and a new Independent Investigator appointed to carry out the formal assessment.

7.2 Any further action, if either party is not satisfied with the Independent Investigator's report, will be a matter for the relevant decision-making body.

## **8. Responsibilities of members of the Parliamentary Community**

8.1 All members of the Parliamentary Community should treat others with dignity, courtesy and respect and be aware of the types of behaviour that are unacceptable under this policy.

8.2 The Behaviour Code encourages all members of the Parliamentary Community to speak up about unacceptable behaviour they experience or observe. Whilst reporting or complaining of alleged bullying or harassment under this policy is subject to certain conditions (see sections 2 and 4 of this policy), this should not prevent anyone from raising their concerns elsewhere (e.g. with their line manager, Trade Union, Staff Association or HR service).

8.3 Managers have a particular responsibility to develop and maintain a working environment in which people are treated with dignity and respect and intervene if they identify bullying or harassment amongst their staff. Managers also have a responsibility for ensuring that any of their direct reports involved in a complaint of bullying or harassment (whether that be a complainant, respondent or a witness) are encouraged to use the ICGS helpline for advice and support.

8.4 Anyone who is involved in the provision of advice through the ICGS helpline, informal resolution or formal investigation of a complaint also has a particular responsibility to act with integrity and to maintain confidentiality, except to the extent that information about the complaint and its outcome is published by a decision-making body (and see also paragraph 4.12). This is particularly important since breaches in confidentiality can result in both workplace and media exposure or scrutiny for those involved, which can be deeply upsetting and damaging.

## ANNEX 2: Sexual Misconduct Policy

# Sexual Misconduct Policy

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## Independent Complaints and Grievance Scheme: Sexual Misconduct

### 1. Introduction and Aims

- 1.1 All members of the Parliamentary community are expected to treat others with dignity, courtesy and respect.
- 1.2 Our Behaviour Code, this policy, the Bullying and Harassment policy and the associated procedures and guidance created and amended from time to time by the Independent Complaints and Grievance Scheme team (the “ICGS team”), the Parliamentary Commissioner for Standards, the Independent Expert Panel and other decision-making bodies provide a framework for us to create a respectful and courteous working environment and to respond to any allegations of unacceptable behaviour promptly, fairly and effectively. Sexual misconduct is unacceptable in all circumstances.
- 1.3 The ICGS applies across the Parliamentary community.
  - In respect of members of the House of Lords and their staff, the ICGS is implemented via the House of Lords Code of Conduct.<sup>1</sup> Though the definitions of sexual misconduct set out in this policy are common to the Parliamentary community, the processes described in this policy and the associated procedures do not directly read across to the House of Lords Code of Conduct.
  - In respect of members of the House of Commons, this policy and the associated procedures apply with some modifications. The Parliamentary Commissioner for Standards has oversight of investigations of allegations of sexual misconduct by Members of Parliament. The definition of sexual misconduct set out in this policy is common to the Parliamentary Community. Once the independent investigator’s initial assessment has been completed, the investigation will be overseen by the Commissioner in accordance with the Standing Orders of the House of Commons and with any agreement made between her and the ICGS team.
- 1.4 This policy relates specifically to sexual misconduct. It sets out who the policy applies to, the conduct covered by the policy and certain other important matters. Details of the procedures for investigation of a complaint under this policy may be obtained from the ICGS team. If an Independent Investigator recommends that a complaint should be upheld under this policy, the matter will be referred to the relevant decision-making body (the employer or another body, depending on the identity of the respondent). Different bodies will have, and use, their own internal policies and procedures to reach a decision.
- 1.5 Sexual misconduct can happen to anyone and can be carried out by anyone, but the research is clear that it is disproportionately carried out by men against women. Sexual misconduct is both a cause and a consequence of inequality and power differences. Abuse of power will be a relevant consideration in deciding the seriousness of misconduct. Sexual misconduct is unacceptable in all circumstances, and may in some cases also constitute a criminal offence.

- 1.6 Research shows that the incidence and specific experience of sexual misconduct can be affected by a number of characteristics of those who are targeted, including the protected characteristics covered under the Equality Act 2010 (sex, race, disability, age, sexual orientation, religion and belief, marriage and civil partnership, pregnancy and maternity, and gender reassignment). Characteristics such as race, sex and sexuality can intersect with each other in ways that create specific issues (for example a Black woman might be targeted with racialised sexual harassment). Additional factors which influence power dynamics include class and if a position of authority is held.
- 1.7 Research has documented the impact of sexual misconduct upon those who have experienced it. Impact cannot be predicted and varies with every individual. Emotional and physical impact can include anxiety and long-term depression, sleep disorders, lowered self-esteem and a range of physical impairments.
- 1.8 The aims of this policy and the associated procedures are to:
- Ensure that all members of the Parliamentary Community are aware of their responsibilities in relation to sexual misconduct;
  - Provide a fair, transparent and consistent approach for reporting, investigating and responding to allegations of sexual misconduct;
  - Ensure that information about sources of support is made available to anyone who experiences sexual misconduct or who is accused of sexual misconduct.

## **2. Definitions**

- 2.1 The definitions below will be used for determining whether any behaviour reported under this policy constitutes sexual misconduct.
- 2.2 All behaviour that constitutes sexual misconduct is a breach of the Behaviour Code. However, not all breaches of the Behaviour Code will constitute sexual misconduct.

### **What is Sexual Misconduct?**

- 2.3 Sexual misconduct describes a range of behaviours including sexual assault, sexual harassment, stalking, voyeurism and any other conduct of a sexual nature that is non-consensual or has the purpose or effect of threatening, intimidating, undermining, humiliating or coercing a person. Any of these behaviours that will be treated as a potential breach under this policy, encompassing behaviours that may or may not also be defined as sexual harassment or sexual offences in the context of civil or criminal courts. However, using the language of sexual misconduct makes it clear that the policy for Parliament is separate from and additional to any legal process.
- 2.4 The following behaviours may constitute sexual misconduct if they occur inappropriately or without explicit and freely given consent. This non-exhaustive list sets out examples in the categories of verbal, non-verbal/environmental and physical sexual misconduct.
- 2.5 **Verbal**—sexual remarks including those about appearance or clothing, jokes, catcalls, questions about sexual life, raising sexual topics, verbal advances, etc.

- Asking personal questions about sexual or social life or offering unwanted personal information about own activities.
- Remarks that draw attention to someone's sex in an inappropriate or unwanted way.
- Enquiring about sexual history, fantasies or preferences.
- Making sexual comments about a person's clothing, anatomy, or appearance.
- Obscene phone calls of a sexual nature.
- Repeatedly propositioning someone, in person or by telephone.
- Subtle or overt pressure for sexual activity, including requests or demands for sexual favours and promises of reward in return.
- Threats of reprisals if requests for sexual activity are turned down.
- Treating someone less favourably because they have rejected or submitted to unwanted sexual conduct.

**2.6 Environmental/Non-Verbal**—displaying pornographic or sexually explicit material, sexist comments and pictures on social media or chat groups, stalking, image-based sexual abuse such as up-skirting, revenge porn, deep fake porn, etc.

- obscene material of a sexual nature in any format (including posters, graffiti, emails, messages, clips or images sent by mobile device or posted on the internet)
- Inappropriate gifts of a sexual nature.
- Inappropriate advances or stalking via social media.
- The circulation or displaying of pornography.
- Sharing private sexual images of another person without consent.
- Repeatedly propositioning someone in writing (including through text or social media chat groups).
- Repeatedly following or tracing the movements of another person without good reason.

**2.7 Physical**—suggestive looks and gestures, staring, leering, threatening behaviour, brushing past someone, pinching, touching, groping, promises/threats related to career prospects in return for sexual favours, etc.

- Uncalled-for physical contact, deliberate brushing past.
- Unwelcome and inappropriate touching, hugging or kissing.
- Groping, grabbing, kissing or fondling without consent.
- Indecent exposure (masturbation, nudity) and acts of voyeurism or exhibitionism.

- Attempting or engaging in sexual intercourse or a sexual act without consent.

2.8 It is not illegal in the UK to pay for sex. However, for individuals to do so when they are acting in a parliamentary capacity or engaged in activity connected to their membership of the Parliamentary Community (whether it takes place in the UK or overseas) is considered unprofessional and inappropriate. It is therefore a breach of the Behaviour Code and constitutes sexual misconduct for the purposes of this policy.

#### What does the law say about sexual misconduct?

2.9 The Equality Act 2010, section 26(2) and (3) defines sexual harassment, which is one form of sexual misconduct. It includes conduct by A of a sexual nature which has the effect of violating B's dignity or creating an intimidating, hostile, degrading or offensive environment for B, even if A did not intend this. Whether conduct constitutes sexual harassment will depend on both B's perception and whether it is reasonable for B to have perceived A's conduct in that way. It may also be sexual harassment by A if A treats B less favourably because B did not submit to A's sexual advances.

2.10 Some forms of sexual misconduct may also constitute criminal offences under a range of legislation, including, but not limited to, the Sexual Offences Act 2003 and the Protection from Harassment Act 1997 and equivalent legislation in Scotland and Northern Ireland. Potential criminal offences include sexual assault, rape, stalking or disclosing private sexual images to cause distress ('revenge pornography').

#### Consent

2.11 Under the Sexual Offences Act 2003, a person is regarded as consenting to sexual activity if (a) they agree to it by choice and (b) have the freedom and capacity to make that choice. This policy uses the same definition of consent in relation to sexual misconduct.

2.12 Capacity—A person's capacity is dependent on whether they are physically and/or mentally able to make a choice and to understand the consequences of that choice. For example, a person does not have the capacity to give consent if:

- They are drunk or under the influence of drugs, for example they may still be physically able to have sex but they may not be able to consent.
- They are asleep or unconscious.
- They may not have capacity if they have a disability or impairment, including learning difficulty, physical disability or mental health condition.

2.13 Consent must be present every time a person (A) engages in sexual activity with another person (B). A must stop if they are not absolutely sure that they have B's consent. Any prior consensual sexual activity or relationship between A and B does not, in and of itself, constitute B's consent to further sexual activity with A. B may withdraw consent at any time (including during a sexual act) and consent can never be implied, assumed or coerced.

### 3. *Terms used in this policy*

- **Complainant:** This is an individual who reports or makes a complaint of sexual misconduct through the ICGS helpline.
- **Respondent:** This is an individual who is accused of sexual misconduct.
- **Report:** This is when a complainant reports an incident to the ICGS helpline.
- **Complaint:** This is when a complainant chooses to pursue their complaint through the ICGS team after reporting it to the helpline.
- **Sexual misconduct:** Any act that is covered by this policy, including sexual harassment and sexual violence.
- **Independent Sexual Misconduct Advisor (ISMA):** a specialist advisory service offered by the ICGS helpline, offering specialist support, advocacy and signposting in relation to sexual misconduct.
- **ICGS helpline:** This is the service for reporting incidents of alleged sexual misconduct. It is also a source of information, advice and support for complainants and respondents, and for anyone else who has experienced, witnessed or is aware of bullying, harassment or sexual misconduct. Callers who have experienced sexual misconduct will be offered the support of an ISMA. The helpline also retains confidential records and provides regular anonymised reports about the levels of helpline usage and the types of issues raised, to monitor the quality of the service, for service improvements and to inform the development of awareness-raising campaigns and cultural change initiatives.
- **ICGS team:** This is the bicameral team which is responsible for managing the procedures under this policy if a complainant decides that they want to take further action in relation to an alleged incident of sexual misconduct (as opposed to using the ICGS helpline to report an incident or access support). The ICGS team also retains confidential records and provides regular reports about the levels of use and types of complaints investigated and resolved, to monitor the quality of the service and inform the development of awareness-raising campaigns and cultural change initiatives.
- **Independent Investigator:** Any formal complaint is allocated to an Independent Investigator, who is responsible for undertaking an initial assessment of the complaint to determine whether the allegation should proceed to a formal assessment. They are also responsible for undertaking a formal assessment of the complaint, based on gathering further evidence from those involved. Independent Investigators are not employees of either the House of Commons or the House of Lords; they contract with the Houses and are selected for specialist expertise and training in relation to complaints of sexual misconduct.
- **Decision-making bodies:** The organisations within the Parliamentary Community with responsibility for taking a decision in relation to a complaint made against a particular respondent. For example, this might be the respondent's employer, or the Parliamentary Commissioner for Standards (and/or the Independent Expert Panel) if the respondent is an MP. Decision-making bodies, and not the ICGS team, are responsible for deciding

and implementing appropriate actions and/or sanctions following an independent assessment of a complaint.

#### **4. Scope**

4.1 This policy applies to acts of sexual misconduct by and against any member of the Parliamentary Community on the Parliamentary estate or elsewhere in connection with their Parliamentary activities.

4.2 For the purposes of this policy, the Parliamentary Community comprises all those working for or with Parliament either on the Parliamentary Estate, in constituency offices or elsewhere in the course of parliamentary work. This includes:

- Members of Parliament (MP) or Members of the House of Lords;
- Employees of MPs or Lords or other people working for them, such as volunteers, people undertaking work experience or interns;
- Employees of the House of Commons and Parliamentary Digital Service;
- Employees of the House of Lords;
- Employees of other Parliamentary organisations (for example, CPA UK, BGIPU, an All Party Parliamentary Group)
- Specialist Advisers and others supporting Parliamentary work, including people employed by political parties or collectively employed by MPs (e.g. PRU, PRS and Group staff);
- Members of the Press Gallery;
- Contractors, agency workers, inward secondees or interns to any of the relevant bodies above;
- Visitors at Westminster

4.3 Under this policy, a person may report and make a complaint about sexual misconduct where both the complainant and the respondent were members of the Parliamentary Community at the time when the alleged sexual misconduct took place, whether or not they remain members of the Parliamentary Community at the point when the complaint is made (but a complaint will not be investigated after the death of the respondent).

4.4 The work of the Parliamentary Community is broad and may involve office work, public facing work, travel and social events related to parliamentary business, as well as non-standard working hours. As a result, this policy applies to behaviour by members of the Parliamentary Community in any circumstances relating to their Parliamentary work, regardless of location.

**How does this policy deal with multiple allegations of sexual misconduct?**

4.5 Sexual misconduct may be:

- by an individual against an individual or against several people, or
  - by several people against an individual or against several people.
- 4.6 This policy can be used to report and investigate any allegation of sexual misconduct on an individual or collective basis (e.g. where a group of people allege sexual misconduct by the same respondent). Where complaints are made collectively, all complainants must provide consent for their evidence to be included in the collective complaint. A complainant may still choose to make an individual complaint separately, if they would prefer not to be part of a collective complaint.
- 4.7 Where someone makes a complaint against several people, this may be managed as a single investigation or as multiple separate investigations relating to each respondent. The ICGS team will decide in such a case whether to allocate the investigation to a single Independent Investigator or to more than one. In either event, the Independent Investigator will consider the case against each respondent on an individual basis when making their assessment of the evidence.
- 4.8 Where several complaints are made independently about one person, each of these will be managed on an individual basis, although the ICGS team may make provision for oversight of all the complaints to ensure that they are consistently treated, and evidence obtained from a witness in one complaint may be used, by agreement, for the purposes of another complaint. The decision-making body with responsibility for the respondent will respond to each report separately, but may also take into consideration previous findings when deciding on an appropriate course of action or sanctions.

#### How does this policy work alongside other ways of reporting sexual misconduct?

- 4.9 This policy is not intended to affect the ability of any individual to report incidents of sexual misconduct to the police, their employer, an employment tribunal or a political party. Making use of the specialist advice available may help individuals to come to a decision that they judge to be right for them. It does not displace any legal or contractual remedy available to any person.
- 4.10 Where a complainant chooses to use another policy to make a complaint of sexual misconduct (for example, if a complaint relating to an MP is made to a political party), or where the complainant has previously brought a complaint of the same, or substantially the same, conduct through another policy or through legal proceedings, the ICGS team reserves the right not to investigate the same incident under this policy.
- 4.11 Where someone has reported an alleged criminal offence to the police and has made a complaint under this policy concerning the same facts, the circumstances of the case will be considered, to determine whether it is appropriate to investigate the matter under this policy at the same time, or whether action under this policy should be paused until the criminal investigation is complete.
- 4.12 This policy does not affect safeguarding obligations for all members of the Parliamentary Community. If you are concerned about behaviour towards a child or vulnerable adult, you should report this to the Designated Safeguarding Lead, as

outlined in the Safeguarding policy. The ICGS helpline, independent investigators and the ICGS team will also carry out risk assessments and have agreed escalation processes in cases where someone is at risk of harm that cannot be mitigated in another way.

#### *What about malicious or vexatious complaints of sexual misconduct?*

- 4.13 We require all individuals involved in a complaint made under this policy to act with integrity and provide accurate information. False accusations of sexual misconduct, while rare, can have serious consequences.
- 4.14 Complaints will always be assumed to be made in good faith unless there is evidence to the contrary. The Independent Investigator will always examine the evidence from the case to determine whether a complaint is made in good faith.
- 4.15 If someone makes a complaint as a result of a genuine mistake or misunderstanding, this will not be a malicious or vexatious complaint. Likewise, if the outcome of an initial or formal assessment under this policy is a recommendation not to uphold the complaint (i.e. the conduct is not found to be sexual misconduct) it should be emphasised that this would not in itself mean the complaint will be regarded as malicious or vexatious.
- 4.16 For an investigation to indicate that a complaint may be malicious or vexatious, there would have to be evidence of manifestly false accusations and / or deliberate intent to discredit the respondent. Where the Independent Investigator finds that a complaint was malicious, vexatious or deliberately false, based on the evidence gathered by the Independent Investigator, the decision-making body for the complainant will be notified. They will then deal with the matter in accordance with their own policies and procedures, which may include disciplinary action or other sanctions.

### **5. *Victimisation***

- 5.1 Fear of victimisation is a major barrier that can prevent individuals from seeking support or resolution. Members of the Parliamentary Community are prohibited from engaging in any form of victimisation, revictimisation, or encouraging others to victimise someone who has made, or has supported someone else in making, a report/complaint or has cooperated in the investigation of a report/complaint.
- 5.2 If victimisation or retaliation are uncovered in the course of an investigation, they will be taken seriously.

### **6. *Timescales for reporting incidents of sexual misconduct***

- 6.1 The sooner a complaint or report is made, the better the chance of thorough evidence gathering. Therefore, early reporting or making a complaint of sexual misconduct is encouraged. However, there may be times when a complainant does not want to or feel able to make a report soon after an alleged incident or incidents of sexual misconduct, the barriers to early reporting are understood and acknowledged and a delayed decision to make a report will be respected and not treated with suspicion. There is no time limit for complaints of sexual misconduct.

- 6.2 There may be times when a complainant does not want to or feel able to make a report soon after an alleged incident or incidents of sexual misconduct. Where a lengthy period of time has elapsed between the most recent incident and a report or complaint being made, as part of the initial assessment, the Independent Investigator will examine the nature of any evidence available to determine whether this is likely to be sufficient to proceed with a formal assessment. For example, in circumstances where there is no contemporaneous evidence of an incident taking place and/or where witnesses have since left the Parliamentary Community, it may be difficult to gather sufficient evidence to make a formal assessment of the complaint.
- 6.3 If someone wishes to report a criminal offence or make a claim through the civil courts, different time limits may apply depending on the nature of the offence. Anyone considering this action should seek legal advice or discuss this with the ICGS helpline.

## **9. Factual accuracy checks**

- 7.3 Once the Independent Investigator has considered all the evidence and prepared a draft formal assessment report, a copy of the draft must be sent to the complainant and the respondent. This is an opportunity for both parties to check that facts and dates are correct and request corrections, raise concerns if relevant evidence has not been considered or relevant witnesses not interviewed, or raise other concerns about the process of the investigation. The parties will normally have 14 days to raise any issues. The check is **not** an opportunity to challenge the Independent Investigator's reasoning or recommendations, unless they are unreasonable or perverse. If the ICGS team (or in the case of an MP the Parliamentary Commissioner for Standards) considers that there are significant errors or omissions in the report or concurs with the view that the findings are unreasonable or perverse, the report may be rejected and a new Independent Investigator appointed to carry out the formal assessment.
- 7.4 Any further action, if either party is not satisfied with the Independent Investigator's report, will be a matter for the relevant decision-making body.

## **10. Responsibilities of members of the Parliamentary Community**

- 8.1 All members of the Parliamentary Community should treat others with dignity, courtesy and respect and be aware of the types of behaviour that are unacceptable under this policy.
- 8.2 The Behaviour Code encourages all members of the Parliamentary Community to speak up about unacceptable behaviour they experience or observe, including reporting concerns to their line managers as appropriate. In cases where a report cannot be made under this policy, this should not prevent anyone from raising concerns elsewhere (e.g. with their line manager or HR service).
- 8.3 Managers have a particular responsibility to develop and maintain a working environment in which people are treated with dignity and respect and intervene if they identify any sexual misconduct amongst their staff. Managers also have a responsibility for ensuring that any of their direct reports involved in a complaint of sexual misconduct (whether that be a complainant, respondent or a witness) are encouraged to use the ICGS helpline for advice and support.

8.4 Anyone who is involved in the provision of advice through the ICGS helpline, an informal resolution or a formal investigation of a complaint also has a responsibility to act with integrity, to provide accurate information and to maintain confidentiality, except to the extent that information about the complaint and its outcome is published by a decision-making body (and see also paragraph 4.12). This is particularly important since breaches of confidentiality can result in both workplace and media exposure or scrutiny for those involved, which can be deeply upsetting and damaging.

## ANNEX 3: Bullying and Harassment Outline Procedure

### Outline of the Independent Complaints and Grievance procedure: Bullying and Harassment

#### 1. Introduction

1.1 This is an outline of how complaints of bullying or harassment are dealt with under the ICGS Bullying and Harassment policy. You can use it to find out:

- How to make a complaint about bullying or harassment;
- What to do if someone has made a complaint of bullying or harassment about you;
- How complaints of bullying and harassment are managed;
- What might happen as a result of a complaint being made under this procedure;
- Sources of support if you have a complaint or if someone has made a complaint about you.

1.2 This outline should be read together with the guides produced by the ICGS team on procedures for making a complaint under the Bullying and Harassment Policy, which give further details of the processes and time scales.

#### 2 Reporting an allegation of bullying or harassment

What should I do if I believe I am being harassed or bullied by someone working for or with Parliament?

- 2.1 In the first instance, you will need to consider whether what you have experienced may amount to bullying or harassment (see section 2 of the Bullying and Harassment Policy, which sets out the definitions used).
- 2.2 If you think you may have been bullied or harassed, you may contact the ICGS helpline for information and advice. The Helpline also provides a safe space for you to discuss your experiences, which may help you understand whether you have been bullied or harassed. The Helpline can provide information about sources of advice and support for you, both within the Parliamentary Community and externally.
- 2.3 When you contact the Helpline, you may either speak anonymously or provide personal information such as your name, role and contact details.
- 2.4 When you contact the Helpline, you can choose what to do next.
  - **Make a report, or seek information and advice only:** You may not want to take the matter any further. If you do not want to make a formal complaint or take any informal action in response to the incident, but later change your mind and decide to make a formal complaint, you may do so. You may find it helpful to create a brief written record of your experiences if you do not already have one.
  - **Informal resolution outside this procedure:** You may want to try and resolve the matter informally yourself, or with appropriate support (e.g. from your line manager), without making a formal complaint. .

- **Make a formal complaint:** In some circumstances, it is not possible or appropriate to seek informal resolution (or an attempt at informal resolution may have been made and proved unsuccessful), so at any stage after making a report to the helpline, you can make a formal complaint through the ICGS helpline (see section 4 of this outline). A formal complaint cannot be made anonymously

2.5 The decision whether to progress to a formal complaint under this procedure is wholly up to you. In exceptional circumstances, if a report involves risks or safeguarding issues which could not be mitigated in any other way, the Helpline may refer the report to other services without your express permission, in the interests of protecting you and other members of the Parliamentary Community.

2.6 An investigator may escalate a case to the ICGS team if they believe that your complaint of bullying and harassment includes behaviour that might amount to a serious criminal offence.

2.7 In that case, the team may share information with the police under a protocol that is designed to make sure that the ICGS investigation does not inadvertently prejudice a criminal investigation. The police will be responsible for deciding whether they need to investigate the matter further, and this may include asking for identifying information. Decision-makers may also have information sharing requirements under their own policies.

2.8 If you decide to make a formal complaint, you may withdraw the complaint and/or seek informal resolution at any stage before the investigation is complete and the draft formal assessment report has been issued for a factual accuracy check.

**What should I do if I believe I have been bullied or harassed by a visitor to the Parliamentary Estate?**

2.9 To manage the incident at the time you can contact the Parliamentary Control Room on 020 7219 3333, who will take any necessary action. You can also report the incident to the ICGS helpline and pursue a complaint through the ICGS team.

**What should I do if I'm not sure whether to report an incident to the ICGS helpline?**

2.10 The table below provides guidance to help you decide whether and how to report an incident.

<b>I'm not sure whether what I've experienced constitutes bullying or harassment</b>	<b>I don't know whether to report what I have experienced as sexual harassment</b>	<b>I believe what I have experienced may constitute a criminal offence</b>
Call the ICGS helpline who can provide information about where you can get further advice and support to discuss your circumstances and help you decide. The definitions of bullying and harassment in section 2 of the Bullying and Harassment Policy may assist.	If you have experienced sexual harassment in addition to other bullying or harassing behaviour, you may choose to report this using this procedure or the sexual misconduct procedure (but not both). The Sexual Misconduct procedure includes access to specialist advice, and so may be more appropriate where the behaviour you have experienced is exclusively or substantially sexual, or where this is the behaviour that concerns you most. A complaint under this procedure can be transferred to the sexual misconduct procedure (with your consent) if you decide that is more appropriate.	The police are best placed to deal with any concerns about alleged criminal offences, although this does not prevent you from making a complaint under the ICGS. You can contact the ICGS helpline, who can provide information about sources of advice and support within the Parliamentary Community and externally, whether or not you want to report the matter to the police. If appropriate, you should also tell your manager so that they can provide any support you may need at work.

2.11 If you are worried about making a report to the Helpline or do not feel able to do this yourself, you can make arrangements to do so with support. For example, a Trade Union representative or Members' Staff representative could be with you when you contact the Helpline.

### **3 Responding to a complaint of bullying or harassment**

I have been advised that a complaint has been made against me—what should I do?

3.1 You could find out that someone has concerns about bullying or harassment at different times, including if they approach you to discuss the matter informally or if they make a formal complaint about you (see sections 4 and 5 of this outline). You can contact the ICGS helpline to find out about support that is available for you, whether or not a formal complaint has been made.

3.2 If the person approaches you informally to try and resolve the matter, this can be a good opportunity to repair and maintain your working relationship. You may be able to understand more about the incident(s) they are concerned about, as well as giving you an opportunity to explain things from your perspective, and discuss how you can work effectively together in future. Further advice is available on informal resolution from the ICGS helpline, or from your HR service if one is available to you.

3.3 If a formal complaint has been made to the ICGS team, the Independent Investigator will help ensure that you are aware of how the complaint will be managed and the sources of support that you can access.

3.4 If someone makes a formal complaint about you, you will be told the details of the complaint being investigated and have the opportunity to respond. If both you and the complainant agree, a formal complaint can also be resolved informally, with or without external support (and the Independent Investigator can have oversight of that process).

3.5 You may find it useful to compile your own record of any incident(s) relating to a complaint or any future incident(s) that arise whilst a complaint is being assessed, including a description of what has happened, where and when it took place, any witnesses and relevant documentation (e.g. emails, letters, social media posts).

#### **4 Stage 1: Making a formal complaint**

**What is the first step in making a formal complaint of bullying or harassment?**

4.1 Making a formal complaint of bullying or harassment can be done by contacting the ICGS helpline.

4.2 A formal complaint can be made in writing by the complainant using the Bullying and Harassment Complaint Form. The ICGS helpline may also complete a form on behalf of the complainant over the phone. The helpline will, with the complainant's consent, forward the complaint to the ICGS team to appoint an Independent Investigator, who will contact the complainant.

4.3 The Independent Investigator will first make an initial assessment of the complaint to determine whether the allegation should progress to a formal assessment. To do this, they will check that the complaint meets the conditions for being reported under the ICGS Bullying and Harassment Policy (e.g. that the complaint is made by and against people who are covered by the policy). They will also examine the wider context of the complaint to ensure this is the right policy to use; and whether the alleged behaviour reaches the threshold for constituting bullying or harassment. Finally, they will consider whether the complaint has been or is being considered in a different forum (e.g. in a workplace disciplinary process or an employment tribunal). Complaints that, in the Independent Investigator's opinion, have already been fully and fairly examined in another forum, or which are in the process of being considered in another forum, may not also be considered under the ICGS. In some cases, this initial assessment stage will need to include contacting the respondent or the decision-making body for either the complainant or the respondent.

4.4 The outcome of the initial assessment could be as follows:

Proceed to formal assessment	No formal assessment	
<b>The complaint can be made under this policy and the incident(s) warrant further investigation (i.e. they may constitute bullying or harassment)</b>	<b>The conduct complained of would not constitute bullying or harassment</b>	<b>The complaint cannot be made using this policy because it does not meet the relevant conditions, or it has already been fully examined (e.g. in the employment tribunal)</b>
The complainant and the decision-making body for the respondent will be notified. The decision-making body may choose to inform the respondent themselves (e.g. to ensure they are supported at the time) or ask the Independent Investigator to inform the respondent.	The complainant and, if the respondent is aware of the case, the decision-making body for the respondent will be notified. The Independent Investigator may still offer support for an informal resolution, to support a positive future working relationship.	The complainant and, if the respondent is aware of the case, the decision-making body for the respondent will be notified. The Independent Investigator may still offer support for an informal resolution, to support a positive future working relationship.

4.5 Where an initial assessment has found that the allegation should progress to a formal assessment, the decision-making body for the complainant should consider any management actions that may be appropriate as the complaint is managed either through brokered resolution or formal assessment (e.g. temporary changes to working hours or responsibilities).

### What happens next?

4.6 If the initial assessment has found that the allegation should progress to a formal assessment, there are two possible outcomes:

- Informal resolution brokered by the Independent Investigator (with or without the support of an external mediator);
- Formal assessment of the complaint by the Independent Investigator.

4.7 In the case of complaints made against an MP, the Parliamentary Commissioner for Standards will have been notified of the complaint as soon as it is passed to an investigator. She has oversight of the investigation under the Standing Orders of the House of Commons from the receipt of the initial assessment until delivery of the final report, and of any proposed informal resolution.

4.8 Usually, the Independent Investigator will explore the possibility of informal resolution, which requires the agreement of both parties, unless the circumstances make this inappropriate. Even if informal resolution has been attempted previously, a brokered approach at this stage can be effective in resolving the problem.

4.9 The complainant also has the option to withdraw their complaint or to take no further action after the initial assessment (but see paragraph 2.8 above).

## What is involved in informal resolution at this stage?

4.10 The Independent Investigator will advise both parties about options for informal resolution and the support they can provide (e.g. arranging a meeting with both parties to discuss the matter). The options for brokered informal resolution include (but are not limited to):

- A facilitated phone call or meeting between the complainant and respondent;
- Communication in writing from the complainant;
- Another appropriate individual (e.g. line manager) supporting communication between both parties.

4.11 The outcomes from brokered informal resolution could include (but are not limited to):

- An apology or acknowledgement of behaviour from the respondent;
- An agreed behaviour contract for working together in future;
- Training for the respondent to increase awareness; or for a particular team/area to enable cultural change or increased awareness;
- Agreement to external mediation.

4.12 Mediation is a voluntary and confidential form of resolving workplace disputes between people, in which a trained, impartial mediator from outside Parliament meets with those involved (both separately and jointly) to understand the issues and assist both parties in finding options for resolving their difference or dispute.

4.13 Since mediation is most likely to be successful if certain conditions are met and is not suitable in all cases, the Independent Investigator will discuss with both parties whether the following conditions apply:

- Whether both parties agree to mediation;
- Whether the problem is appropriate for mediation (in some cases mediation may not be appropriate due to the nature of the issue or the power dynamics in the relationship);
- Whether there is commitment on both sides to seeking resolution.

If these conditions are met at the pre-mediation stage, the Independent Investigator will make arrangements for independent mediation.

4.14 At any stage during informal resolution, the complainant can choose to move to formal assessment. However, if the complainant is satisfied with the outcome of the informal resolution or mediation, there is no need to do anything further.

4.15 If a complaint is resolved via brokered informal resolution, there would be no assessment made in relation to the respondent (i.e. whether the complaint constituted bullying or harassment), since no formal assessment would be made as part of informal resolution activities.

## **5 Stage 2: Formal assessment of complaints**

5.1 There may be circumstances in which informal resolution to a complaint is either

inappropriate (for example, if the nature of the complaint is particularly serious), unwanted by either or both the complainant and respondent, or in which informal resolution or mediation are unsuccessful. In these cases, following an initial assessment that concludes that the allegation merits further investigation, the complainant can request a formal assessment of the complaint, which will be undertaken by the Independent Investigator.

**What happens during a formal assessment?**

5.2 The Independent Investigator will gather further evidence about the complaint from the complainant, the respondent and any witnesses. This will usually involve holding detailed evidence gathering meetings with those involved and/or requesting written evidence.

5.3 The report will make an assessment, the outcomes of which may be:

<b>Recommendation to uphold the complaint</b>	<b>Recommendation not to uphold the complaint</b>	
The investigator finds facts which he or she assesses as supporting the allegation of bullying or harassment	The investigator’s assessment is that the evidence does not support the allegation of bullying or harassment	The complaint is potentially malicious, vexatious or deliberately false
The complainant and the decision-making body for the respondent will be notified. Further action may be taken by the decision-making body for the respondent.	The complainant and the decision-making body for the respondent will be notified.	The parties and their respective decision-making bodies will be notified. Further action may be taken by the decision-making body for the complainant.

5.5 The standard of proof for a formal assessment will be on the balance of probabilities (i.e. that the incident complained of is more likely than not to have occurred). In cases where there is limited evidence available, the Independent Investigator will comment on this and the role it has played in their assessment.

**6 Stage 3: Decision and action**

6.1 Once the Independent Investigator has completed the formal assessment, the decision-making body for the respondent will be sent the report. If there has been an assessment of bullying and harassment by the investigator, the decision-maker will use their own policies

and procedures to deal with the matter, including conducting any additional investigations and imposing sanctions, where appropriate.

6.2 Potential sanctions will be dependent on the relevant decision-making body.

6.3 If the following aggravating factors are uncovered in the course of any fact finding or investigation, they will be reported in the formal assessment and may affect the sanctions imposed by the decision-making body:

- The increased impact that bullying or harassment on a person targeted because of a particular protected characteristic (or perceived characteristic) under the Equality Act 2010;
- Retaliation or victimisation as a result of the complaint;
- Breaches of the confidentiality of the complaint by the respondent;
- Failure to comply with measures previously agreed by informal resolution or imposed by an earlier ICGS report;
- Refusal to engage with the investigation;
- Additional breaches of the Behaviour Code.

6.4 There may be times when it is not appropriate for complainants to know full details of any sanctions imposed (e.g. via disciplinary proceedings). Complainants will always be made aware of and consulted about any sanction, or the publication of any report, that involves the public identification of either themselves and/or the respondent, and their views will be fully taken into consideration.

6.5 If a complaint has been found to be malicious, vexatious or deliberately false, the decision-making body for the complainant will be notified. They will use their own policies and procedures to deal with the matter, including conducting any additional investigations and imposing any sanctions.

## **7 Reviews**

### **What if I don't agree with the outcome of an initial assessment?**

7.1 If an initial assessment finds the allegation should not progress to a formal assessment the complainant can ask the ICGS team for a review of the outcome. If the ICGS team agree that a review is appropriate, it will be conducted by an investigator who has had no previous involvement in the case. A review may be requested only once, and must be requested within 14 days of receipt of the initial assessment.

7.2 For complaints against an MP, in addition to any review requested by the complainant a review of an initial assessment will be carried out by the Parliamentary Commissioner for Standards. If a review finds that the decision on the initial assessment was flawed, the case will generally be re-assessed by a different Independent Investigator.

### **What if I don't agree with a draft formal assessment?**

7.3 The independent investigator must send the draft assessment to the parties for a factual accuracy check, in accordance with paragraph 7 of the Sexual Misconduct policy.

## **8 Arrangements for initial and formal assessment meetings**

8.1 This section of the procedure contains information for complainants, respondents and witnesses. Further information is available from the ICGS.

### Notification of meetings

8.2 If you are a complainant, respondent or a witness involved in an assessment, you may be invited to meeting(s) with the Independent Investigator.

### The right to be accompanied

8.3 If you are a complainant or respondent, you can be accompanied in any meetings under this procedure by a colleague from the Parliamentary Community, an interpreter or trade union representative. Further information about what a person accompanying you can or cannot do is available from the ICGS team.

8.4 If you are interviewed as a witness, you would not usually be accompanied in the meeting. However, the Independent Investigator may, at their discretion, permit you to have a companion if appropriate to the circumstances (e.g. if you have difficulty understanding written or spoken English or have particular needs as a result of a disability).

### Attendance

8.5 If you are a complainant or respondent, you must take all reasonable steps to attend any meetings with the Independent Investigator. Failure to do so without good reason will be taken seriously and recorded in the assessment report. In the event of continuing failure of the complainant to attend, the Independent Investigator will treat the complaint as withdrawn. If the respondent persistently fails to attend, the Investigator may complete the report on the basis of the evidence available and without hearing the respondent's evidence.

### Confidentiality

8.6 Complaints under this policy will be treated confidentially and will only be discussed with those who are involved in resolving it by the ICGS helpline, the independent investigator, ICGS team and decision-making bodies. If you are involved in a complaint as a complainant, a respondent or a witness you should also treat the matter as strictly confidential (subject to paragraph 10.2). Likewise, if you are involved in informal resolution outside this procedure in any capacity (e.g. as a line manager or HR adviser), you should maintain confidentiality, as appropriate. Note that in exceptional circumstances information may be disclosed in order to safeguard the welfare of another person (who could be the complainant, the respondent or a witness).

8.7 Formal complaints cannot be raised anonymously since this would not allow the respondent to understand the complaint against them or for the complaint to be resolved or investigated fully. This will always be discussed with you before progressing with the complaint. You may make anonymous reports to the ICGS helpline.

8.8 During the course of initial and formal assessments, relevant extracts of statements or

minutes from meetings with the complainant, respondent and witnesses may, if the investigator thinks fit, be made available to both the complainant and respondent to ensure that all parties involved can understand and respond to relevant evidence provided by others. Copies of relevant documentation (e.g. email or other correspondence, social media posts) may also be provided.

## Records

8.9 If you are a complainant, respondent or witness, you will be provided with a copy of the notes from any meeting you attend under this procedure. You will be given the opportunity to review the notes and ensure they are an accurate record. If you dispute any aspect of the notes, a record of this will be kept.

## 9 Timescales

The intention is always that complaints made under this procedure are dealt with promptly. However, complaints of bullying or harassment can vary in complexity and circumstance, so some complaints may take longer to resolve than others. Details of the standard timescales are annexed to this procedure, and further information is available from the ICGS team.

## 10 Support for those involved in complaints of harassment or bullying

10.1 The ICGS helpline can provide information about sources of support for complainants and respondents, both within the Parliamentary Community and externally.

10.2 Whether you are a complainant or respondent, we encourage you to let your manager, HR service, party whips or other relevant people (e.g. your trade union representative) know that you are involved in a complaint of bullying and harassment under this procedure. They will be able to discuss any actions that could be available to support you both during and after an investigation (e.g. temporary changes to working practices, hours, accompaniment during working hours).

## 11 Sanctions

11.1 Sanctions are a matter for the appropriate decision-making body.

11.2 Where a person has ceased to be a member of the Parliamentary Community, the decision-making body will be the body which would have been the decision-making body for that person immediately before the person's departure. However, the range of sanctions available will be much reduced, and in some cases no sanction will be available.

## 12 Tools and resources

The following tools and resources are also available

- Guidance from the ICGS team on the procedure;
- Flowcharts showing the procedure for the complainant and respondent;
- Table outlining usual time periods for assessment of formal complaints;

- Template form for making a formal complaint.

### Annex: standard timescales

Stage of procedure	Responsibility	Timescale
Acknowledgement of complaint	Independent Investigator	Within 5 calendar days of the complainant's request
Notice of meetings with the Independent Investigator	Independent Investigator	A minimum of 5 calendar days before the meeting
Provision of draft minutes from meetings	Independent Investigator	Within 5 calendar days of the meeting
Agreement of minutes of investigation meetings	Complainant, respondent or witness	Within 7 calendar days of receiving the minutes
Comments on formal assessment (see para 7.3 above)	Complainant and respondent	Within 14 calendar days of receipt of the draft report
Response to comments	Independent Investigator (and/or the Parliamentary Commissioner)	Within 14 calendar days of receipt of comments from the parties.

## **ANNEX 4: Sexual Misconduct Outline Procedure**

### ***Outline of the Independent Complaints and Grievance Procedure: Sexual Misconduct***

#### **1 Introduction**

1.1 This is an outline of the procedure for making a complaint under the ICGS Sexual Misconduct policy. You can use it to find out:

- How to make a complaint about sexual misconduct;
- What to do if someone has made a complaint of sexual misconduct about you;
- How complaints of sexual misconduct are managed;
- What might happen as a result of a complaint being made under this procedure;
- Sources of support if you have a complaint or if someone has made a complaint about you.

1.2 This outline should be read together with the guides produced by the ICGS team on procedures for making a complaint under the Sexual Misconduct Policy, which give further details of the processes and time scales.

1.3 There are three distinct pathways

- Pathway 1: ICGS helpline
- Pathway 2: Informal Resolution
- Pathway 3: Formal Complaint

1.4 These pathways can be accessed independently or in the following combinations;

- Pathway 1: Can be used by all for advice, support and signposting, regardless of whether Pathway 2 or 3, or neither, is used.
- Pathway 2: Is an optional pathway for complainants who wish to seek informal resolution with the respondent, through a facilitated process.
- Pathway 3. At any point during this pathway, up to the point when a draft formal assessment report is produced for a factual accuracy check, the complainant will have the option to withdraw the complaint and seek resolution through Pathway 2.

#### ***2 Pathway 1: Support from an ISMA through the ICGS helpline***

2.1 The ICGS helpline provides support and guidance on the options available to callers. The helpline provides access to accredited and experienced Independent Sexual Misconduct Advisers (ISMAs) who will provide specialist support, advice and advocacy in relation to sexual misconduct.

2.2 Those contacting the ICGS helpline to discuss sexual misconduct will be logged anonymously or with identifying details, depending on the wishes of the individual, and

their information will be kept confidential. The support of an ISMA is offered and the complainant can choose whether to access this support.

2.3 One of the aims of the ICGGS helpline is to enable the complainant to make informed choices about the pathways they wish to pursue by putting them at the centre of decision-making in relation to their case.

2.4 Where risks to the complainant or others are identified, the ISMA will assess and manage risks in accordance with agreed protocols.

2.5 If individuals are unsure that what they have experienced is sexual misconduct or think the behaviour might also be related to other factors, they can still follow this pathway which will give them access to specialist advice and support related to sexual misconduct that will help in deciding the best course of action.

#### **Pathway 1: Confidentiality**

2.6 Confidentiality will be maintained in relation to contacts made via the ICGS helpline, unless otherwise agreed. However, there may be circumstances where certain information may need to be shared with other parties' consistent with safety, a duty of care or with Parliament's safeguarding responsibilities.

2.7 In these circumstances, the ISMA will seek the permission of the complainant and, if this is not granted, will need to weigh up the risk of potential further harm to them or others before sharing information, for example, in cases where someone is in immediate physical danger.

### **3 Pathway 2: Informal Resolution**

3.1 This pathway offers an option to address issues informally as an alternative to making a formal complaint under Pathway 3.

3.2 At any time after contacting and receiving advice and support from ICGS helpline, the individual (referred to here as the complainant although no formal complaint has been made) may decide that they wish to take action to help remedy their situation through informal resolution.. This Pathway will not include an investigation. For this reason, although action may lead to resolution, this may be limited in scope.

3.3 Where necessary, an ISMA who has had no prior involvement will help broker and facilitate interventions.

3.4 Informal resolution might include (non-exhaustive list):

- A facilitated telephone conversation between the complainant and the respondent.
- Communication in writing from the complainant.
- A face to face meeting, facilitated by the ISMA with the respondent.
- Intervention by another appropriate individual, such as the manager of the respondent.

3.5 Desired outcomes might include (but are not limited to):

- An apology from the respondent.
- Acknowledgement of the behaviour by the respondent.

- A behavioural agreement outlining what is considered appropriate/ inappropriate behaviour moving forward.
- Training:
  - o for the respondent to increase awareness of inappropriate/appropriate behaviours, their impact and expectations going forward.
  - o for an area/team to deal with an inappropriate culture or to train a particular team, which doesn't target a particular individual.
  - o for the complainant to help them cope and deal with any future inappropriate behaviours.

3.6 The complainant may decide at any time to end or halt the progress of this pathway.

3.7 If a resolution is agreed under this pathway, no finding of fault will be recorded in respect of the respondent. Details of both parties will be kept confidential.

3.8 If the complainant requests informal resolution it will be necessary to involve the respondent, and possibly other members of the Parliamentary Community as necessary. These individuals will be contacted only with the permission of the complainant.

#### ***4 Pathway 3: Formal Complaint***

##### Considerations

4.1 The key principles of any investigation will be fairness, due process and proportionality:

- The complainant, respondent and any witnesses will be treated fairly and with dignity.
- The respondent will be provided with details of the allegations made against them and by whom and will be offered appropriate support.
- The standard of proof will be on the balance of probabilities (i.e. that the incident complained of is more likely than not to have occurred).
- Efforts will be made to avoid any re-traumatisation of the complainant.

4.2 It is recognised that there may be occasions when safeguarding and protective obligations, including the duty to protect the complainant from retaliation or victimisation, may inform the degree of disclosure to the respondent of certain details of some reports, in tandem with the principles of natural justice. Factors to consider when making this decision will be:

- The immediate safety of the complainant, such as risk of violence or retaliation.
- The immediate safety of the respondent.

- Whether there is a substantial risk that the respondent would make efforts to interfere with or undermine an investigation.
- Whether a reasonable request has been received from the police or other authority with statutory or investigatory powers to require the information.

4.3 At each stage in the process evidence will be sought and be considered. Decisions for further evidence gathering will need to be carefully considered as the preference will be to interview the parties only once, to avoid the risk of potential re-traumatisation and prolonging the process.

4.4 Under Pathway 3, an Independent Investigator will also escalate a case if they believe the complaint of sexual misconduct might amount to a serious criminal offence. In that case, the Scheme may share information with the police under a protocol that is designed to make sure that our internal investigation does not inadvertently prejudice a criminal investigation. The police will be responsible for deciding whether they need to investigate the matter further, and this may include asking for identifying information. Decision-makers may also have information sharing requirements under their own policies.

## **Pathway 3: Investigation process**

### ***5 Stage 1: Initial Assessment***

5.1 Making a formal complaint of sexual misconduct can be done by contacting the ICGS helpline.

5.2 Formal complaints can be made in writing by the complainant using the ICGS Complaint Form. The ICGS helpline may also complete a form on behalf of the complainant over the phone. The helpline will, with the complainant's consent, forward the complaint to the ICGS team, who will appoint an independent investigator to contact the complainant.

5.3 The Independent Investigator will first make an initial assessment of the complaint to determine whether the allegation should progress to a formal assessment. To do this, they will check that the complaint meets the conditions for being reported under the ICGS Sexual Misconduct Policy (e.g. that the complaint is made by and against people who are covered by the policy). They will also examine the wider context of the complaint to ensure this is the right policy to use; and whether the alleged behaviour reaches the threshold for sexual misconduct. Finally, they will consider whether the complaint has been or is being considered in a different forum (e.g. in a workplace disciplinary process or an employment tribunal). Complaints that, in the Independent Investigator's opinion, have already been fully and fairly examined in another forum, or which are in the process of being considered in another forum, may not also be considered under the ICGS. In some cases, this initial assessment stage will need to include contacting the respondent or the decision-making body for either the complainant or the respondent.

5.4 The outcome of the initial assessment could be as follows:

Case should progress to formal assessment	The case should not progress to a formal assessment	
<b>The complaint can be made under this Policy and the incident(s) warrants further investigation (i.e. may constitute sexual misconduct).</b>	<b>The conduct complained of would not constitute sexual misconduct</b>	<b>The complaint cannot be made using this policy because it does not meet the relevant conditions, or it has already been fully examined (e.g. in the employment tribunal)</b>
The complainant and the decision-making body for the respondent will be notified.  The ICGS helpline remains available to offer ongoing support and advice.	The complainant and, if the respondent is aware of the case, the decision-making body for the respondent will be notified.  The ICGS helpline remains available to offer ongoing support and advice.	The complainant and, if the respondent is aware of the case, the decision-making body for the respondent will be notified.  The ICGS helpline remains available to offer ongoing support and advice.

5.5 Where an initial assessment has found that the allegation should progress to a formal assessment, the decision-making body for the complainant should consider any management actions that may be appropriate as the complaint is managed (e.g. temporary changes to working hours or responsibilities).

5.6 The complainant also has the option to withdraw their complaint or to take no further action after the initial assessment (but see paragraph 1.4 above).

## **6 Stage 2: Formal Assessment**

6.1 Before starting a formal assessment, the Independent Investigator will contact the appropriate decision-making body, who will notify the respondent of the complaint. These discussions might involve sharing:

- An assessment plan;
- The approach for evidence gathering (e.g. including the timetable, list of witnesses, any documentation to be requested)

6.2 A letter is sent to the relevant parties to start the evidence-gathering process.

6.3 In the case of complaints made against an MP, the Commissioner for Standards will have been notified of the complaint as soon as the initial assessment is complete. She has oversight under the Standing Orders of the House of Commons of the investigation from the receipt of the initial assessment until delivery of the final report, and of any proposed informal resolution.

6.4 The Investigator interviews both parties and any witnesses to collect any evidence and understand the circumstances of the complaint, any actions already taken and whether there are any steps that could be taken to create a resolution. Witnesses will be given the opportunity to supply evidence.

6.5 The outcome of a formal assessment is a written report recording details of the complaint, the evidence that has been gathered to enable the Investigator to make an assessment of whether there has been sexual misconduct by the respondent, the Investigator’s analysis of that evidence and the recommendation to uphold or not uphold the complaint.

6.6 If the complaint is upheld, the assessment will be sent to the relevant decision-making body, identifying the Investigator’s recommendation and the reasons for that assessment.

6.7 The report will make an assessment, the outcomes of which may be:

Recommendation to uphold the complaint	Recommendation not to uphold the complaint	
The investigator finds facts which he or she assesses as supporting the allegation of sexual misconduct.	The investigator’s assessment is that the evidence does not support the allegation of sexual misconduct.	The complaint is potentially malicious, vexatious or deliberately false
The complainant and the respondent will be notified Further action can be taken by the decision-making body for the respondent.	The complainant and the respondent will be notified.	The complainant and the respondent will be notified. Further action can be taken by the decision-making body for the complainant.

### **7 Stage 3: Decision and Action**

7.1 Once the Independent Investigator has completed the formal assessment, the decision-making body for the respondent will review the report. If there has been an assessment of sexual misconduct by the Independent Investigator, the decision-making body will use their own policies and procedures to deal with the matter including any additional investigations and imposing sanctions.

7.2 Potential sanctions will be dependent on the relevant decision-making body.

#### **Aggravating factors**

7.3 If the following aggravating factors are uncovered in the course of any fact finding or investigation, they will be reported in the formal assessment and may affect the sanctions imposed by the decision-making body:

- The increased impact that sexual misconduct on a person targeted because of a particular protected characteristic (or perceived characteristic) under the Equality Act 2010;
- Retaliation or victimisation as a result of the complaint;

- Breaches of the confidentiality of the complaint by the respondent;
- Failure to comply with measures previously agreed by informal resolution or imposed by an earlier ICGS report;
- Refusal to engage with the investigation;
- Additional breaches of the Behaviour Code.

## 8 Reviews

### What if I don't agree with the outcome of an initial assessment?

8.1 If an initial assessment finds the allegation should not progress to a formal assessment the complainant can ask the ICGS team to review the outcome. If the ICGS team agrees that a review is appropriate, it will be conducted by an Independent Investigator who has had no previous involvement in the case. A review may be requested only once, and must be requested within 14 days of receipt of the initial assessment.

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### What if I don't agree with a draft formal assessment?

8.3 The independent investigator must send the draft assessment to the parties for a factual accuracy check, in accordance with paragraph 7 of the Sexual Misconduct policy.

## 9 Arrangements for initial and formal assessment meetings

9.1 This section of the outline Procedure contains information for complainants, respondents and witnesses.

### Notification of meetings

9.2 If you are a complainant, respondent or a witness involved in an assessment, you may be invited to meeting(s) with the Independent Investigator.

### The right to be accompanied

9.3 If you are a complainant or respondent, you can be accompanied in any meetings under this Procedure by a colleague from the Parliamentary Community, the ISMA, an interpreter or a trade union representative. Further information about what a person accompanying you can or cannot do is available from the ICGS team.

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## Attendance

9.5 If you are a complainant or respondent, you must take all reasonable steps to attend any meetings. Failure to do so without good reason will be taken seriously and recorded in the assessment report. In the event of continuing failure to attend, the Independent Investigator may treat the complaint as withdrawn. If the respondent fails to attend, the Investigator may complete the report on the basis of the evidence available and without hearing the respondent's evidence.

## Confidentiality

9.6 Complaints under this policy will be treated confidentially and will only be discussed with those who are involved in resolving it by the ICGS helpline, ICGS team and decision-making bodies. If you are involved in a complaint as a complainant, a respondent or a witness you should also treat the matter as strictly confidential except as provided in paragraph 10.2. Likewise, if you are involved in informal resolution outside this procedure in any capacity (e.g. as a line manager or HR adviser), you should maintain confidentiality, as appropriate. Note that in exceptional circumstances information may be disclosed in order to safeguard the welfare of another person (who could be the complainant, the respondent or a witness).

9.7 Formal complaints cannot be raised anonymously since this would not allow the respondent to understand the complaint against them or for the complaint to be resolved or investigated fully. This will always be discussed with you before progressing with the complaint. You may also make anonymous reports to the ICGS helpline.

9.8 During the course of initial and formal assessments, relevant extracts of statements or notes from meetings with the complainant, respondent and witnesses may, if the investigator thinks fit, be made available to both the complainant and respondent to ensure that all parties involved can understand and respond to relevant evidence provided by others. Copies of relevant documentation (e.g. email or other correspondence, social media posts) may also be provided.

## Records

9.9 If you are a complainant, respondent or witness, you will be provided with a copy of the notes from any meeting you attend under this procedure. You will be given the opportunity to review the minutes and ensure they are an accurate record. If you dispute any aspect of the notes, a record of this will be kept.

## **10 Support for those involved in complaints**

10.1 The ICGS helpline can provide information about sources of support for complainants, respondents and witnesses, both within the Parliamentary Community and externally.

10.2 Whether you are a complainant or respondent, we encourage you to let your manager, HR service, party whips or other relevant people know that you are involved in an ICGS complaint. They will be able to discuss any actions that could be available to support you both during and after an investigation (e.g. temporary changes to working practices, hours, accompaniment during working hours).

## **11 Timescales**

The intention is always that complaints made under this procedure are dealt with promptly. However, complaints of sexual misconduct can vary in complexity and circumstance, so some complaints may take longer to resolve than others. Details of the standard timescales are annexed to this procedure, and further information is available from the ICGS team.

## **12 Sanctions**

12.1 Sanctions are a matter for the relevant decision-making body.

12.2 Where a person has ceased to be a member of the Parliamentary Community, the decision-making body will be the body which would have been the decision-making body for that person immediately before the person's departure. However, the range of sanctions available will be much reduced, and in some cases no sanction will be available.

## **13 Tools and resources**

The following tools and resources are also available

- Flowcharts showing the procedure for the complainant and respondent;
- Table outlining usual time periods for assessment of formal complaints;
- Template form for making a formal complaint.

### Annex: standard timescales

Stage of procedure	Responsibility	Timescale
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Provision of draft minutes from meetings	Independent Investigator	Within 5 calendar days of the meeting
Agreement of minutes of investigation meetings	Complainant, respondent or witness	Within 7 calendar days of receiving the minutes
Comments on formal assessment (see para 8.3 above)	Complainant and respondent	Within 14 calendar days of receipt of the draft report
Response to comments	Independent Investigator (and/or the Parliamentary Commissioner)	Within 14 calendar days of receipt of comments from the parties.