

Conduct Committee

Minutes of the meeting on Thursday 11 March 2021 at 12.30pm via MS Teams

Present:

B. Anelay of St Johns	Vanessa Davies
L. Brown of Eaton-under-Heywood	B. Donaghy
Cindy Butts	B. Hussein-Ece
Mark Castle	L. Mance (Chair)
Andrea Coomber	

With the Clerk of the Parliaments.

DELIBERATION IN PRIVATE

1. Minutes from 10 February meeting

The minutes from the 10 February meeting were agreed.

2. Oral update by the Chair on matters arising

The Chair informed the Committee that he had had a meeting with the Chair of the Committee on Standards in Public Life, Lord Evans of Weardale.

The Chair updated the Committee on the progress of the recruitment of two new Commissioners. It was noted that the Commissioners would start on the same date and there would be a six-month difference in their finishing dates to promote consistency and encourage corporate memory.

The Committee noted that the trial of Lord Ahmed on child sexual abuse charges had collapsed. His Honour Judge Jeremy Richardson QC had made criticisms of the prosecution's disclosure of evidence. The collapse of the trial had caused renewed press coverage of the Committee's report into Lord Ahmed's conduct; the Daily Mail incorrectly said that there had been restrictions on reporting until the trial had collapsed.

It was noted that this would be the last meeting with the outgoing Clerk of the Parliaments, Ed Ollard, and the Chair introduced the incoming Clerk of the Parliaments, Simon Burton.

Baroness Hussein-Ece left the meeting at this point having declared an interest in the next agenda item.

3. Consideration of written appeal by Baroness Tonge

(COND/19-21/106, 106a; COND/19-21/107; COND/19-21/109; COND/19-21/110; COND/19-21/115)

The Committee considered a written appeal by Baroness Tonge against the Commissioner's finding that she had breached the Code by bullying the complainant

when she sent a letter to the complainant, copying in two activists, and uploaded a statement about the complainant to the APPG on population development and reproductive health website. Baroness Tonge's appeal was based on the grounds that the Commissioner was "plainly wrong" in her finding. She also appealed against the proposed sanction.

The Committee unanimously agreed to uphold Baroness Tonge's appeal.

4. ICGS changes to definitions of bullying, harassment and sexual misconduct
(COND/19-21/111)

House of Commons Speaker's Counsel, Saira Salimi, introduced this item because she had proposed the definitional changes in the paper.

This paper suggested amendments to the definitions of bullying, harassment and sexual misconduct in the Independent Complaints and Grievances Scheme (ICGS). The amendments were proposed in the light of Alison Stanley's 18-Month Review into the ICGS, and the amended definitions would replace those in Appendix B of the Code. The revised definitions would ensure that the definitions were identical for everyone subject to the ICGS across both Houses.

In the discussion, the Chair raised concerns that removing the requirement for harassment to be related to a protected characteristic (as defined in the Equality Act 2010) could blur the line between bullying and harassment. The Committee noted that there was already considerable overlap between bullying and harassment behaviours and that the Commons had already interpreted harassment as not necessarily related to protected characteristics. It was also noted that harassment related to protected characteristics would be treated as an aggravating factor. The Committee agreed to the amendment of the definition of harassment. The Committee also agreed to the suggested amendment to include a reasonableness test in the definition of harassment in line with the Equality Act 2010.

It was agreed that paragraph 2.11 in the paper should be amended to read "Elements of bullying may include" instead of "Examples of bullying may include" to ensure that the examples would not be read as an exhaustive list. The Committee agreed to all of the proposed amendments to the ICGS definitions.

5. Reputational damage: feedback from the Party groups and revised draft report
(COND/19-21/112)

The Registrar of Lords' Interests introduced this paper.

The paper provided the feedback from the Party groups on the draft proposals arising from the referral by the House of Lords Commission. It summarised the main themes of the feedback,

The Committee agreed not to publish the report for the time being. The Committee would invite the Steering Group for Change to draft social media guidance. It was agreed that the Committee would write to the Commission to explain that, having undertaken consultation on a draft report, at the present time it would not be sensible to seek to push the report through the House. The letter would say that the Committee fully accepted that the issue could not be ignored and that they had invited the Steering Group for Change to draft social media guidance for members.

The Committee noted that they would have a draft report on the reputation of the House “on the stocks” should another incident occur. It was also noted that other events such as members being struck off by professional regulators would not be covered by social media guidance and the Committee would need to consider how to cover such an event in the future.

6. Oral update on Steering Group for Change

Baroness Donaghy orally updated the Committee on the work of the Steering Group.

7. Any Other Business

The ICGS implementation lead, Alex Brocklehurst, updated the Committee on members’ completion of Valuing Everyone training. The Committee noted that 84% of members had either completed or booked Valuing Everyone training. It was expected that over 90% of members would have completed the training before the deadline in April. The Committee also noted that around 80% of staff had completed Valuing Everyone training and the Management Board was working to enable staff in non-desk-based jobs to complete the training, something which had been held up by the pandemic.

It was noted that the Commission would remit some of the recommendations in the Alison Stanley 18-Month Review to the Committee, such as the recommendation related to cluster reporting.

Lord Mance left the meeting at this point having declared an interest in the next agenda item and Lord Brown took the chair

8. Registration of members’ foreign interests: draft report (COND/19-21/113)

The Registrar of Lords’ Interests introduced this paper.

The paper set out further questions for the Committee to consider in relation to the registration of members' foreign interests. A draft report for the House was annexed to the paper.

In the discussion, the acting Chair expressed his concerns about the registration requirement and the lack of exemptions from the requirement. He said that he was not persuaded that the value of the perception of transparency outweighed the problems that could be caused by the report.

The Committee considered whether to adopt Lord Thomas of Cwmgiedd's compromise for lawyers and arbitrators when acting in their legal capacity. This compromise would require lawyers and arbitrators to disclose clients/parties once the professional relationship became public or when the member was paid, whichever came first. Lawyers and arbitrators would be required to disclose retained clients from the start. As with other interests, members would have one month from the date the professional relationship became registrable to register the identity of the client. They would have longer to disclose the fees paid, as described in the last report. The acting Chair suggested that paragraph 20 of the report should be amended to read (new text in **bold**):

“In recognition of the sensitivity of some legal proceedings we propose that lawyers should be required to disclose the identity of clients only once the relationship has entered the public domain or they have been paid (**wholly or in part**) for the work, whichever comes first.”

The Committee agreed to adopt Lord Thomas' compromise in the report, including the acting Chair's suggested amendment as above.

The Committee considered whether intergovernmental bodies should be deemed to be caught by the provision. The paper proposed that intergovernmental organisations should only engage the foreign interests provisions if the UK was not a full member state. The Committee agreed to this proposal.

The Committee agreed that the evidence provided by professional bodies should be published as an annex to the report.

The acting Chair called a division on the Question that the report be agreed to. The Committee divided:

- Baroness Anelay of St Johns – CONTENT
- Lord Brown of Eaton-under-Heywood – NOT CONTENT
- Cindy Butts – CONTENT
- Mark Castle – CONTENT
- Andrea Coomber – CONTENT
- Vanessa Davies – CONTENT
- Baroness Donaghy – CONTENT
- Baroness Hussein-Ece – CONTENT

7 members of the Committee voted CONTENT; 1 member voted NOT CONTENT. The report was therefore agreed to. The drafting changes to the report would be agreed by correspondence.

The Committee considered who should move the report in the House. The acting Chair said that he could not move the report because he did not support the provision and could not recommend it to the House. Baroness Anelay of St Johns also excluded herself from moving the report. It was agreed that Baroness Donaghy would move the report in the House.

Chloe Mawson
Clerk to the Conduct Committee
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