

THE HOUSE OF COMMONS COMMISSION

Independent Complaints and Grievance Scheme: facilitating multiple complaints

Report presented to the House of Commons by the Speaker

Ordered by The House of Commons to be printed 30 March 2022

Commissioners

The Speaker (Sir Lindsay Hoyle) (Chair), The Leader of the House of Commons (Mark Spencer), Nickie Aiken, Nick Brown, Thangam Debbonaire, Sir Charles Walker, Pete Wishart, Dr John Benger (Clerk of the House), Marianne Cwynarski (Director General (Operations)), Louise Wilson (External member) and Shrinivas Honap (External member).

Secretary to the Commission: Gosia McBride

Assistant Secretary: Ed Potton

Independent Complaints and Grievance Scheme: facilitating multiple complaints

Introduction

1. The Independent Complaints and Grievance Scheme (ICGS or “the scheme”) was introduced on 19 July 2018.¹
2. In October 2020 Alison Stanley CBE was appointed to undertake an independent 18-month review of the operation of the scheme. Her report was published on 22 February 2021² and included a number of recommendations for changes to the scheme’s policies, processes and procedures.
3. The House of Commons Commission considered Alison Stanley’s report and endorsed its recommendations on 22 March 2021. Subsequently, on 28 April 2021, the House agreed to related amendments to the scheme, as set out in a report from the Commission (HC 1384).
4. Alison Stanley’s report also considered outstanding policy issues, and included a recommendation for a bicameral working group to consider the issue of ‘cluster reporting’, in particular “to consider how a fair and data protected complainant reporting procedure can be operated for collecting and storing the data and informing other potential complainants if a complaint is made”. The House of Commons Commission approved the establishment of the bicameral working group on 12 July 2021 and for the working group to report back to the Commission in the autumn. At its meeting on 18 October 2021, the Commission endorsed the working group’s proposal to amend the ICGS policies to include a new procedure that would allow potential complainants to ask the ICGS helpline to record details of a complaint, and then (subject to various safeguards) be alerted to the existence of other complaints against the same individual, before deciding whether to take their complaint through the ICGS process.
5. The House will shortly be asked to agree to amend the ICGS policies to include this procedure. This report is intended to inform that decision. As a bicameral scheme, agreement to these changes has also been sought through the appropriate governance arrangements in the House of Lords.

Background

6. The 18-month review noted that there had been support for the ICGS to be developed to help potential complainants overcome the daunting first step of

¹ [Independent Complaints and Grievance Scheme Delivery Report](#)

² [Independent Complaints & Grievance Scheme: Independent 18-month Review](#), Alison Stanley CBE

making a formal complaint. The review recommended that a new procedure be incorporated to ensure that potential complainants can be made aware of other potential complaints about the same individual, to help them to decide whether to pursue a formal complaint.

7. The review referred to this as ‘cluster reporting’, a term on which there is no agreed definition, and which could describe a range of mechanisms or policies. For this reason, the working group considered the more accurate description of the process, as recommended in the 18-month review, was ‘facilitating multiple complaints about the same individual’.

What the ICGS already allows

8. The ICGS is a complainant-led scheme – that is, one that gives agency to those who feel they have experienced bullying, harassment or sexual misconduct to seek support and to initiate a formal investigation if they wish. This means that a complaint cannot be investigated unless the complainant wishes it to be investigated, and is prepared to be named as the party bringing the complaint, while the investigation is carried out in confidence.
9. The scheme already provides for complaints, in certain circumstances, to be investigated together, as well as a mechanism for alerting relevant managers to repeat allegations against the same individuals:
 - a. *Collective complaints*: the ICGS allows for the reporting and investigating of allegations on a collective basis. This can arise where two or more complainants are aware of what happened to each other, and they decide to report complaints together. Where complaints are made collectively, each complainant 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.³
 - b. *Protocol for repeat allegations against named respondents*: there is a protocol in place to manage risks and reports of serious incidents. If there are two or more reports to the helpline of sexual misconduct from different people about the same individual, or five or more reports of bullying or harassment from different people against the same individual, the helpline will alert the ICGS team to ensure that action can be taken to manage the risks.⁴ These are not formal disclosures that could lead to independent investigations of a complaint, but reports that name the same individual, including from anonymous reporters or those who have witnessed, rather than directly experienced, the behaviour. The intent is to help Parliament to manage risks, rather than to investigate allegations that might result in

³ ICGS, [Bullying and harassment policy for UK Parliament](#), 2021, paragraph 4.6; [Sexual misconduct policy for UK Parliament](#), 2021, paragraph 4.6.

⁴ The protocol is worded as follows: If the helpline service identifies that a Respondent has been named by more than one individual in relation to Sexual Misconduct or five or more individuals in relation to Bullying and Harassment, Victim Support will communicate this to the ICGS investigation Liaison Lead [contact details].

sanctions. Under this protocol, those who report behaviour have less agency than those who make a formal complaint, in that the information could be passed to Parliament without their express consent (although the ICGS helpline would never share the name of the person contacting the helpline). The information about the named respondent is passed to the ICGS team who then alert the relevant senior manager/employer, so that action can be taken. The 18-month review notes that the scope to take action in such cases might be limited.⁵

Option for a new procedure to facilitate multiple complaints about the same individual

10. The recommendation in the 18-month review goes beyond the existing policies, to allow for details of potential complaints from individuals who do not initially wish to pursue a formal complaint to be recorded and those individuals to be later contacted to ask them whether they want to raise a formal complaint if there are other (potential) complaints about the same individual.
11. Currently, callers to the ICGS helpline may seek advice, support or information, without necessarily giving details about themselves or any behaviour or incident they have experienced. They might also contact the helpline in order to start the process of progressing a formal complaint, which will require them to make a formal disclosure, including their own name, and details of the events they have experienced, which (subject to initial assessment) will later be disclosed to the person accused ('respondent').
12. The changes proposed will mean that callers to the helpline will have a new option: to record details of behaviour they have experienced, including the name of the person carrying out that behaviour, and their own name, with the stated intention that they do not wish to progress a formal complaint now, but consent to be contacted again within a defined period of time if one or more other people complain to the helpline about the same person. At that point the first caller may then choose to progress a formal complaint.

How the new process would work

13. A simplified chronological view of how this would work is set out below:

Report #1 – no formal complaint (now/alone), but consents to data being held in case of other complaint(s) about the same individual

⁵ 'While the ICGS Director would speak confidentially to the HR Director of the relevant Decision-Making Body about the alert from the Helpline, the challenge remains as to what action could then be taken', Alison Stanley, [Independent Complaints and Grievance Scheme: independent 18-month review](#), 22 February 2021, paragraph 264.

Report #2 – no formal complaint (now/alone), but consents to data being held in case of other complaint(s) about the same individual

Reporters #1 and #2 alerted to the fact that there is another potential complaint about the same individual, and in light of that information may decide to progress a formal complaint

Report #3 – no formal complaint (now/alone) but consents to data being held in case of other complaint(s) about the same individual

Reporters #1, #2 (if they have not already progressed a formal complaint) and #3 alerted to the fact that there is another potential complaint about the same individual, and in light of that information may decide to progress a formal complaint

14. The independent helpline would, as now, record the identity of the caller, and establish their eligibility to use the scheme as members or former members of the parliamentary community. Anonymous or third-party reports could not be used in this process.
15. Potential complainants would not be told about other potential complaints in their first contact with the helpline, but only in a subsequent contact initiated by the helpline, in a staged process. This would ensure that callers to the helpline are treated in the same way and are offered all options and support, without being led or influenced towards any particular course of action.
16. In alerting reporters to the existence of other potential complaints, only the minimum amount of information would be shared, consistent with the need only to alert potential complainants to other potential complaints. The names of other potential complainants, and details of the events they have reported other than the name of the alleged respondent, would not be shared. Potential complainants would not be put in touch with one another.
17. Anonymous or third-party reports could not be used in this process. There would thus be no opportunity for a caller to obtain from the helpline details of the identities of those complained about unless they themselves had disclosed sufficient information about themselves and their own experience of alleged bullying, harassment or sexual misconduct, sufficient to establish their eligibility to bring a complaint under the Scheme.
18. There would be a time limit of one year for holding this information. This conforms to the principle that information should be held for no longer than necessary to achieve its purpose, avoiding the possibility of sensitive information being held indefinitely. A one-year time limit would align with the amended ICGS bullying and harassment policy, which provides that, from April 2022, a complaint under the policy must be made within one year of the incident in question.⁶ The sexual

⁶ ICGS, [Bullying and harassment policy for UK Parliament](#), 2021, paragraph 6.3.

misconduct policy provides no such time limit for bringing a complaint, in recognition of the different impact of such behaviour on victims.⁷ Nevertheless, in view of the requirements of data protection legislation, a 12-month time limit for holding information about potential complaints is appropriate irrespective of the type of behaviour experienced.

19. The ICGS helpline service is currently provided by an independent charity called Victim Support, under a contract with Parliament. Implementation of the proposal outlined above would require some changes to their operating systems and procedures. Victim Support have the capability to support the secure management of data required for this new process, while also having the professional expertise to manage potentially sensitive contacts with complainants who might have experienced trauma. Victim Support would be responsible for ensuring compliance with data protection law.
20. There would be no change to the definitions of bullying, harassment or sexual misconduct in the existing ICGS policies. Each complaint would be assessed separately to ascertain whether it is eligible under the relevant policy's definitions. It would be entirely possible, under the process envisaged, for some complaints or elements of complaints to be upheld, and some not to be upheld. Behaviour in multiple complaints that does not meet the current definitions could not be 'combined' so that it would amount to bullying, harassment or sexual misconduct.

Changes to the ICGS policies

21. The House is invited to agree that the ICGS bullying and harassment policy be amended to include the following new paragraph:

4.8A: A potential complainant may ask the ICGS helpline to record details of a complaint of bullying or harassment, to be held for a period of up to one year; and, subject to various safeguards, to be alerted by the helpline to the existence of other complaints against the same individual, before deciding whether to take their complaint through the ICGS process.

22. Similarly, the House is invited to agree that the ICGS sexual misconduct policy be amended to include the following new paragraph:

4.8A: A potential complainant may ask the ICGS helpline to record details of a complaint of sexual misconduct, to be held for a period of up to one year; and, subject to various safeguards, to be alerted by the helpline to the existence of other complaints against the same individual, before deciding whether to take their complaint through the ICGS process.

23. If agreed, the approach set out above would implement the recommendation in Alison Stanley's 18-month review of the ICGS. The proposal represents a relatively

⁷ ICGS, [Sexual misconduct policy for UK Parliament](#), 2021, paragraph 6.1.

modest technical development of the existing Scheme to implement the recommendation: a fair and data-compliant means of storing information and informing potential complainants when another complaint is made. It would help potential complainants who were concerned about making formal complaints, by being reassured that there were other complaints about the same person.

Next steps

24. Subject to the final agreement of both Houses, the ICGS team would work with the independent helpline to implement the new process, while also delivering a comprehensive communications plan to alert stakeholders across the parliamentary community to the additional process available to potential complainants, mindful of possible confusion arising from the term 'cluster reporting'. The communications plan would explain what the new process is, and what it is not. The ICGS team would review the process after one year of operation.