



HOUSE OF LORDS

Conduct Committee

8th Report of Session 2021–22

The conduct of Lord Pendry

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Conduct Committee

The Conduct Committee reviews and oversees the Codes of Conduct and the work of the House of Lords Commissioners for Standards. Recommended changes to the Codes are reported to the House and take effect when agreed by the House.

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The conduct of Lord Pendry

REPORT FROM THE CONDUCT COMMITTEE

1. The Committee has considered a report by the Commissioner for Standards on the conduct of Lord Pendry, alongside a written appeal from Lord Pendry. The findings and discussions in this case relate to bullying.

Summary

2. The Commissioner's report concerns a complaint by a member of staff in the Parliamentary Security Department that Lord Pendry breached the Code of Conduct by bullying them. After investigation, the Commissioner, Akbar Khan, upheld that complaint and recommended that Lord Pendry be suspended from the service of the House for one week. Lord Pendry appealed the finding to the Conduct Committee.
3. The role of the Conduct Committee is not to reopen the Commissioner's investigation, but to consider any appeal on one or more of the four grounds set out in paragraph 194 of the Guide to the Code of Conduct. In this case, Lord Pendry appealed on the ground that "the Commissioner was plainly wrong in their finding".
4. Having carefully considered Lord Pendry's appeal, the Committee has concluded that the Commissioner was not plainly wrong in his finding, and has therefore dismissed the appeal. The Committee has further concluded that the proposed sanction (against which Lord Pendry did not appeal) is proportionate to the breach.
5. **Accordingly, we recommend that Lord Pendry be suspended from the service of the House for one week.**
6. In making this recommendation, we note that one of the duties of security officers is to challenge individuals who are not displaying a security pass. This can sometimes make people feel uncomfortable. But we stress that it is incumbent on all members of the parliamentary community to support security officers in their critical work of protecting all those on the parliamentary estate.
7. We also urge members to keep in mind the power imbalance that exists between them and many other members of the parliamentary community, and to remain conscious of the impact of their behaviour. In the event of disagreements with others in the parliamentary community, they should raise their concerns with the relevant managers and not seek to take matters into their own hands.

Lord Pendry's appeal points

8. Although it is not our role to reopen the Commissioner's investigation, for the sake of completeness we briefly address Lord Pendry's five appeal points below.
9. Lord Pendry's first point was that the Commissioner had inappropriately cherry-picked from a letter sent by a key witness, MN. We do not agree with this characterisation. In reaching his finding, the Commissioner rightly

quoted the parts of the letter which provided evidence about whether there had been a breach of the Code. He also drew upon the wider contextual aspects of MN's evidence when considering mitigating factors at paragraph 79 of his report.

10. The second point was that the Commissioner erred in not accepting the evidence of a key witness, GH, as quoted in Lord Pendry's response to the draft report. We note that the Commissioner asked repeatedly during the investigation to take evidence from GH directly, but that Lord Pendry declined at all stages to involve GH. We agree with the Commissioner that it would not have been appropriate to accept GH's evidence indirectly through Lord Pendry.
11. The third point was that the Commissioner failed to use the evidence of a witness, KL, in a balanced way. We believe that Lord Pendry's analysis of KL's evidence is in fact consistent with the conclusions which the Commissioner himself drew from it, namely that Lord Pendry made physical contact with the complainant's radio, and that while Lord Pendry was calm by the time KL arrived, the complainant appeared "shocked" by what had happened before that point. We therefore conclude that the Commissioner's use of KL's evidence was even-handed.
12. Lord Pendry's fourth point was that the Commissioner gave too much weight to the evidence of the complainant, and not enough to that of other witnesses. Noting that the Commissioner was unable to take evidence from GH, that MN was not a direct witness to the incident in question, and that Lord Pendry himself told the Commissioner that he reprimanded the complainant, we see no force to the argument that the Commissioner weighted the evidence inappropriately.
13. The fifth point was that it was not objectively reasonable for the complainant to have perceived Lord Pendry's behaviour as bullying, and that there was no abuse or misuse of power. We agree with the Commissioner that the complainant genuinely and reasonably perceived Lord Pendry's behaviour as bullying, and that there was a clear power imbalance between the complainant and Lord Pendry.
14. It follows that we have no reason to conclude that the Commissioner was plainly wrong in his finding. We therefore dismiss the appeal and uphold that finding.

Sanction

15. Lord Pendry did not appeal against the proposed sanction of a one-week suspension from the service of the House. However, since this is the first time the House has been asked to impose a very short suspension, we wish to record that we wholly endorse the Commissioner's analysis (in paragraphs 83 and 84 of his report) of why a suspension of this duration is appropriate.

Annex A: Report from the House of Lords Commissioner for Standards on the conduct of Lord Pendry

CHAPTER 1: INTRODUCTION

1. This report deals with a complaint made about Lord Pendry by a member of staff in the Parliamentary Security Department. The complaint was made under the provisions of the Code of Conduct for Members of the House of Lords dealing with bullying. This states that members are required to treat those with whom they come into contact in the course of their parliamentary duties and activities with respect and courtesy. Behaviour that amounts to bullying, harassment or sexual misconduct is a breach of the Code of Conduct.
2. In considering this complaint, I¹ have been supported by Sue Davies, Independent Investigator, the TCM Group, and Donna Davidson, a Clerk who assists me in my work. I wish to place on record my thanks to them for all their help, while also acknowledging that I am solely responsible for the conclusions reached and the decisions made in this investigation.
3. By its nature, any report into allegations of bullying, harassment or sexual misconduct will include content that some readers may find upsetting or offensive. My aim is to reflect fairly and fully the evidence I gather in the course of an investigation and not to censor or in any way minimise views expressed or material uncovered. I believe this transparency is essential to helping the House of Lords to be a workplace where everyone is valued and respected, and where it is clear that bullying, harassment and sexual misconduct are not tolerated. This means that reports into allegations of bullying, harassment or sexual misconduct will often make for difficult reading.
4. **The findings and discussions in this case relate to bullying.**

1 This investigation and report was completed by Akbar Khan.

CHAPTER 2: EXECUTIVE SUMMARY

Complaint by EF²

5. EF submitted an initial complaint about Lord Pendry on 24 August 2021. EF, a member of security staff in the Parliamentary Security Department, alleged that on 6 July 2021, they found one of Lord Pendry's guests, GH, who was not a passholder, walking unescorted near the House of Lords Chamber. They said that they had escorted the guest to the toilet and then escorted them back to the Peers' Guest Room where Lord Pendry was waiting with his other guest, MN (GH's mother). A short time later, EF alleged that Lord Pendry confronted them while they were on duty near the House of Lords Chamber. They alleged that Lord Pendry grabbed their radio to try to see their name badge and demanded to know their name because he was upset with the way his guest had been treated.
6. EF said the incident left them "physically shaken and unnerved" as well as "shocked and upset". They said they continue "to feel very anxious and stressed regarding this incident".

Lord Pendry's response

7. Lord Pendry acknowledged that he was angry and upset by the way his guest had been treated by EF and wanted to confront them about their behaviour. He denied grabbing EF's radio during their encounter and said that he did not touch EF at any point. He also disputed some other details of EF's account.

Further investigation

8. Both Lord Pendry and EF told me that a doorkeeper, KL, witnessed some of their encounter. I interviewed KL who was able to corroborate some key aspects of EF's account, namely that they were witness to Lord Pendry touching EF's radio.
9. I also obtained written evidence in the form of EF's pocketbook entry and a written statement from EF's manager who attended in the aftermath of the incident.
10. Finally, I sought and obtained a letter that MN sent to the Clerk of the Parliaments following the incident. Lord Pendry refused my request to provide contact details for GH, whom I wanted to interview, as he did not want him to have any further involvement in these matters.

Finding

11. On consideration of all the evidence, I concluded that Lord Pendry's behaviour met the criteria for bullying and was a breach of the Code of Conduct.

Outcome

12. I considered all the options available to me in order to identify an appropriate sanction by reference to all the circumstances of the case, including the effect

2 Where initials are used in place of names in this report this is to protect the anonymity of those involved. The initials bear no relationship to real names. In addition, throughout this report plural pronouns, rather than gendered singular pronouns, have been used also to protect anonymity.

of the breach on the complainant. I concluded that this case could not be resolved via remedial action, but at the same time that the breach was also not serious enough to merit a long suspension or expulsion.

13. **In the light of the findings and the circumstances of the offence, I recommend that Lord Pendry be suspended from the House for one week.**

CHAPTER 3: COMPLAINT BY EF: ACCOUNT OF THE KEY FACTS AND EVIDENCE

EF's complaint

14. I was contacted by EF by email on 24 August 2021. EF is a member of staff in the Parliamentary Security Department. They told me that they had encountered Lord Pendry while they were on duty in the East Division of the House of Lords (i.e. the river side of the building) on 6 July 2021.

15. EF explained how they came to be in contact with Lord Pendry:

“In the course of carrying out my duties in the east division HOL I discovered a paper pass holder. I dealt with the pass holder in a polite manner and escorted [them] to a toilet in lower waiting. On the pass holder being returned to [their] host, thought all was good I returned to my post.

But at approximately 1800hrs a peer unknown at the time, approached me grabbing my radio demanding to know my name. This incident was witnessed [KL], Door keeper, who assisted me. I called for support.

This whole incident left me physically shaken and unnerved. I submit this to you and thank you. This all took place on the 6/7/21.”

16. I wrote to EF on 27 August requesting some further details to enable me to conduct my preliminary assessment. I asked who the member in question was, and what the effect of the incident had been on EF.

17. EF responded on 23 September and confirmed that the member in question was Lord Pendry. They said that the incident “made me feel uncomfortable as well as shocked and upset.” They told me that the incident had triggered and exacerbated some ongoing health conditions and that since the incident they “felt very vulnerable and uncomfortable in working at that end of the estate.”

Preliminary assessment

18. I carried out a preliminary assessment and concluded that it would be appropriate to investigate whether Lord Pendry's conduct constituted a breach of the Code of Conduct. I wrote to EF with information about my next steps. I also wrote to Lord Pendry on 1 October, enclosing the complaint from EF and explaining that, as a result of my preliminary assessment, I had concluded that there was sufficient evidence to establish there was a *prima facie* case to be investigated.

19. I asked Lord Pendry to send me a full and accurate account of the matter in question.

Lord Pendry's written evidence

20. Lord Pendry emailed me his written response on 7 October. He wrote:

“In response to [EF's] complaint, I wish to respond by making a few salient points which contradict in essence [EF's] recollection of the events of the 6 July 2021 in the House of Lords.

I was the host to [MN] and her young son [GH] to show in particular [GH] who is a student at [redacted] University and keen to see where [redacted] works and generally view for the first time the parliamentary estate.

After a brief tour we went for tea and biscuits in the Peers Bar at a point in the course of our meeting [GH] asked where the toilets are—as I was about to escort him when two young waitresses took over and volunteered to take him to the toilets which was some short distance away. After a short while and on his return both his mother and I noticed him in a conversation with a security [officer] now know to be [EF]. On [GH]’s return to our table, he was visibly shaken telling us the ordeal of being “frog marched” from the toilets and barked at by [EF] shouting, “he was not escorted” and “lucky it was [them] and no other as he could be in real trouble”. He really was upset so much so I asked him as we were about to conclude our tea would he point out the security [officer] as I would wish to express my anger at [their] treatment of you.

I approached the complainant and strongly told [them they] had no right to treat guests the way [they] had done. At this point [they] and I were alone with [GH] a short distance away. At no time as alleged did I touch [their] radio (indeed I didn’t know security staff carried them). We were joined by who I know as [KL], a door keeper who asked “what was going on”—I said “we have a dispute” or something of that nature and proceeded to tell [EF] I intended to report [them] and asked for [their] number. [They] turned to show [their] number on the sleeve of [their] left shoulder -this was witnessed by [KL] who had not witnessed the earlier part of my encounter with [EF] as [they] arrived on the scene after I had made my verbal views known to [EF].

[EF] was clearly shaken by my having castigated [them], but I felt [GH] was a young man not deserving of [EF]’s behaviour. [EF] then shouted to [GH] “did I upset you?”. [GH] waved to me to let it drop and then [EF] added “if I did, I am sorry”. I accepted that as an apology and decided to let the matter rest.

So, to recap

1. I didn’t grab [their] radio.
2. I showed that I was upset at [their] treatment of my young guest.
3. [KL] was not present when I first confronted [EF] but joined us at the time I requested [their] work number—therefore [they] could not have witnessed my earlier confrontation with [EF].
4. [KL] was however present when [EF] called to [GH] asking was he upset by [their] approach and if so [they were] sorry.
5. [EF] did not escort [GH] to the toilet. 2 waitresses did and I understand from the person in charge of the bar is willing to testify to this.
6. [EF] bullied [GH] on his return from the toilet.

I thought that was sufficient for me to call it a day. I joined [GH] and caught up with his mother (who incidentally was waiting outside the ladies toilet unaccompanied and had none of the problems her son had!)

So that is where I left it not to make a complaint, not for a moment believing [EF] would take it upon [themselves] to complain of my involvement on that day.”

EF’s oral evidence

21. Ms Davies and I interviewed EF via Microsoft Teams on 22 October, with Donna Davidson, Standards Clerk, attending. Simon Hankins, Head of Security Operations in the Parliamentary Security Department, was also in attendance, at EF’s request.

22. EF explained that they were posted in the House of Lords East Division on 6 July and described their duties:

“We just monitor the activities of people coming through the Peers’ Lobby and in those areas, seeing a load of people always being polite and courteous at all times, interacting with police and the doorkeepers as and when necessary.”

23. EF described how they came into contact with GH, Lord Pendry’s guest, at approximately 5.55pm that day:

“I was kind of away from my point at the east division door talking to the PC in the Peers’ Lobby and he walked into the Peers’ Lobby, and he was on his own, and I approached him as a paper passholder and asked him where he had just come from and where he had, sort of, been and where he wanted to go.

And he said he had come from a restaurant, which he seemed a bit unsure of where that was. And I asked him what he wanted to do, and he said he wanted to go to the toilet.

And I informed him at that time, as a paper passholder, he shouldn’t be unescorted, and I showed him where the toilet was and took him out of the Peers’ Lobby Central and guided him to the toilets at Lower Waiting.

And, to the best of my recollection, said to him, “Come back the same way”, because I didn’t want to sort of impose upon him whilst he went to the toilet. Then he came back. I was on post again. And when he came back from the toilet, he spoke to the PC, and I then said to the PC, “I’ll look after this young man”, and tried to establish where he was going back to and whom he was with, and took him from there.

We took what was a wrong turn to go downstairs because I thought he might be going to the river restaurant, but then he gained his bearings and said, “No, it wasn’t down there”. I said, “Okay, where was it?” And outside the Pugin room, he looked to the door, and he said, “It’s that one over there”, which was the [Peers’ Guest Room], and I escorted him to the doorway there. As I’m leaving him at that moment, I asked the question who his host was he informed me that his host was Lord Pendry, and I just informed him of the House rules, “It’s not your fault that you’ve been stopped by me in this way, and your host should have

been aware of the rules, and you should have been escorted”, and left him to re-join his host, thinking that was the end of something simple, and went back to my post in the east division.”

24. EF recalled their conversation and manner with GH as being “polite and friendly” and that GH “didn’t react badly”. EF said that they were never rude to GH and their conversation “concluded in a good way”. They said the whole time spent with GH to escort him to the toilet and back to the Peers’ Guest Room, including waiting for GH, would have been “maybe 10 minutes or so”.
25. EF recalled that around five to ten minutes after leaving GH with Lord Pendry in the Peers’ Guest Room, Lord Pendry walked down the corridor where EF was patrolling, pointing his finger and asking “what’s my name and who am I”. EF described Lord Pendry’s tone as “angry” and “abrupt”.
26. EF described Lord Pendry’s demeanour as “imposing” and told me how they tried to distance themselves from Lord Pendry because “he appeared to be very angry”, but they had their back to a bookcase. At this point, EF described being “unnerved” and “unsettled” and unsure why they had been approached like this.
27. EF then described how, after asking for EF’s name, Lord Pendry “grabbed my radio and a little bit of a tussle took place while I took my hand to remove his hand and gain my radio back.” EF said they thought Lord Pendry did this “to access my name badge which was underneath the radio.”
28. I asked EF what their response to Lord Pendry’s actions was:

“EF: Yes, I did give him my name. I said to him, “My name is [EF], sir, and my number is [redacted]. What’s the problem?”

AKBAR KHAN: Are you giving him your name at the same time he has his hands on your radio?

[EF]: Yes.”

At this point, EF described feeling fearful because they did not know what was going to happen next. EF said that Lord Pendry was standing “dead in front” of them. EF was asked for how long Lord Pendry had his hand on their radio. EF replied “It wouldn’t have been a minute. It would have been seconds, but it felt a lot longer at the time, but it wasn’t that long”.

29. They explained that “there was a doorkeeper that must have been coming out of the corridor, who I know to be [KL] now, and [they] intervened and assisted on sort of defusing the situation that I found myself in.”
30. EF said that once KL arrived, “I went back down to my main point of the post—to the east division threshold—and called for support using the telephone. I called up the [Security Office Manager]’s office, [redacted], and the manager on duty at the time, [OP], came up to assist. The whole thing left me quite shaken.”
31. EF told me that once OP arrived, OP started to take notes of what had happened.

32. EF described how at the time of the incident they felt “scared” and “intimidated” and that the ongoing impact had been an increase in their anxiety. EF said that immediately after the incident concluded they sat down in a chair because they felt “unnerved by it all” and they were “visibly shaken”.

EF’s pocketbook entry

33. EF was not in possession of their pocketbook on 6 July so they wrote up their notes immediately following the incident in their diary and then copied it into their pocketbook the following day. I reviewed both the diary entry and the pocketbook entry which are almost identical. The pocketbook entry read as follows:

“Tuesday 6th July 2021, I [EF] of P.S.D. Security Post. I was on post in the East Division corridor, whilst on post I was talking to [police officer] in Peers’ Lobby when an unknown white male, smartly dressed early 20s came into Peers’ Lobby unescorted with a paper pass. I asked him where he came from. He replied he was a guest in a restaurant but unsure of which one. I asked him what he wanted to do. He replied use a toilet. I asked [police officer] to monitor my post, while I assisted the young man to the toilets in the Lower Waiting Hall. On way to the toilet I informed the male of the House rules all visitors on paper pass to be escorted throughout their visit to the Estate and the male’s host should be aware of House rules, explaining why I escorted him and gave guidance to him to the toilets where, giving him instruction to come back the same way, I headed back to post. All appeared to be OK. I returned back to post 18.00 appx the paper pass holder returned talked to [police officer]. I [EF] intervened offering to assist the male back to his host. After a wrong turn, the young man gained his bearings and pointed to Peers’ Guest Dining Room. On leaving the male I asked him who his host was. He replied Lord Pendry. On leaving the male I informed him it was not his fault I stopped him and his host should have been familiar with House rules. This was 18.05 appx. I returned to East Division post.

18.05 appx I was in the East Division corridor walking toward the Pugin Room. A group of people passed through the quadrant beside the Pugin Room. Lord Pendry was in the group. He approached me. He appeared to be very angry pointing his finger at me. I asked what the problem was. He demanded to know my name. He grabbed at my radio touching me to reveal my name badge. I tried to remain calm throughout. Whilst my personal space had be invaded I didn’t know. But door keeper [KL] was walking behind and witnessed this event and assisted me by attempting to calm Lord Pendry and try to find a peaceful outcome to the situation for which I was very grateful of [their] assistance. I returned to post, called [redacted] for support and S.O.M. [OP]. S.O.M. [OP] attended and took notes from door keepers in Peers’ Lobby at 18.15 appx I was offered a break after this incident.

[EF].”

Lord Pendry’s oral evidence

34. Ms Davies and I interviewed Lord Pendry on 26 October, with Donna Davidson, Standards Clerk, attending. Lord Pendry described how he had

been entertaining two guests in the Peers' Guest Room on 6 July prior to the incident with EF.

35. He told me that one of his guests, GH, needed the toilet and two waitresses in the guest room offered to show him where to go.

36. I asked Lord Pendry whether his expectation was that the waitresses would wait with GH and escort him back, and he replied that he thought they were just going to show him the way and then leave him to find his way back. When I challenged Lord Pendry on whether this was in line with House of Lords rules on escorting guests, he said "Normally there's no problem with that. You say where the toilet is; they go when we are having dining in the dining room."

37. Lord Pendry said that when GH returned, he:

"was shaking and said he had been frogmarched—I had never heard that word for a long time—frogmarched up from the toilet. And in the course of it, this person had said to him, "You are very lucky that I've caught you. You could have been in real trouble without me", blah blah blah, and [they] gave him a really bad time. So he was really upset when he came to us. So I said to him, "Well, look, we are nearly finished now. Will you point out to me this [person]?"

38. Upon leaving the Peers' Guest Room, Lord Pendry said that GH pointed out EF to him in the corridor and Lord Pendry approached EF and said to them, "'You must not talk to guests of mine like that", and at that point we were on our own. There was no witness there at all."

39. When asked about his demeanour as he approached EF, Lord Pendry said "You can't say I was calm. I was very annoyed that somebody, a guest of mine, had been treated like that and spoken to like that." Lord Pendry said EF seemed "surprised" and "flummoxed".

40. I asked Lord Pendry about his tone of voice during this exchange:

"AKBAR KHAN: Did you raise your voice towards [them]?"

LORD PENDRY: I can't say I was shouting, because I wasn't shouting. One doesn't do that sort of thing in the palace, I think.

AKBAR KHAN: But were you talking in a normal way or was it raised?

LORD PENDRY: It wasn't normal either. It would be --

AKBAR KHAN: All right.

LORD PENDRY: You know, I would be quite stern.

AKBAR KHAN: All right.

LORD PENDRY: Firm about it."

41. Lord Pendry denied categorically that he made any physical contact with EF. He said EF's allegation that he grabbed their radio was "absolute nonsense" and that he only asked verbally for EF's badge number.

42. Lord Pendry said that the incident ended when EF shouted to GH, who was standing apart from them, “Did I upset you? If I did, I am sorry”. Lord Pendry stated that at that point, he considered the matter to be closed.
43. Lord Pendry described EF’s demeanour during the incident, saying they looked “visibly upset”.
44. When questioned on KL’s involvement, Lord Pendry said “I think [they were] curious and [they] immediately said, “What’s going on?”, or something like that. I said, “We are having a disagreement here”. [They] said no more than that.
45. Lord Pendry said that KL was present when he was asking EF for their badge number, and that he left KL and EF talking to each other at the end of the incident. He said the whole incident lasted “virtually seconds really, I mean perhaps a minute or so”.
46. Lord Pendry ended by saying:

“I got the impression that [EF] wouldn’t do that in a hurry again. I think [they were] ticked off forcibly, verbally, and that was satisfactory to me in itself, really. But there is an atmosphere, as you know, in this space now that people are flexing their muscles against the Members of Parliament and Peers, in many cases rightly so, but I think it is something that is quite new. I have been here 50 years and I have never known the atmosphere being like it is at the moment.”

He added:

“I think that in the past there would be, no—we wouldn’t be sitting here talking about it. In the past I think you sort of brush yourself off, dust yourself off, or whatever the expression is, and start all over again. I mean, I think these things are getting too sort of bureaucratic, you know. I think that normally, you know, it’s like you going to the headmaster and getting the cane. That would be the end of it. You might feel sore for a while but you would forget it because you have had your punishment. But it has gone beyond that now.”

Further investigation

47. Following my interviews with EF and Lord Pendry, it was clear that some important aspects of EF’s account which could amount to a breach of the Code of Conduct were contested by Lord Pendry. I therefore sought corroborative evidence which would support either version of events.

KL’s oral evidence

48. On 27 October, Ms Davies and I interviewed KL, the doorkeeper who witnessed part of the incident, with Donna Davidson, Standards Clerk, attending.
49. KL told me that they were on their way to the mess room for their break on 6 July when they came across EF and Lord Pendry in a corridor close to the House of Lords Chamber. KL explained that they approached them and said “Hello, Lord Pendry”, and Lord Pendry said, ‘I am not happy with this security officer, the way [they have] treated my guest.’”

50. KL described how Lord Pendry touched EF's radio. They said he "Didn't move it, just pushed it to his side and I said, 'What are you doing?', [he said], 'I want [their] name'. I said, 'Just ask for [their] name'." KL said they would not describe Lord Pendry as grabbing the radio, but that he did definitely touch it. KL said there was 'no grabbing' action but Lord Pendry "did reach out and did touch EF, did touch the radio and moved the radio".
51. KL described EF looking "shocked", "stunned", and "gobsmacked". They said, "I think [they were] speechless, to tell you the truth." KL said that Lord Pendry was "calm" and "not aggressive" when they approached him.
52. KL said that after Lord Pendry got EF's number and KL had told him not to touch EF, Lord Pendry walked back to his guest and left. KL did not recall EF saying anything to Lord Pendry's guest.
53. KL said they spoke to EF following the incident and encouraged them to write up their notes and to make a complaint if they wanted to. When asked why they said this, KL said it was because Lord Pendry touched EF's radio: "In my mind of the thing, that is assault. You have touched [their] body without [their] consent."
54. Finally, KL confirmed that the rule for guests of passholders on the estate is that "they have got to be with [the passholder] at all times, 24 hours a day." They also said that due to COVID rules, members were only allowed one guest on the estate at that point in July.

OP's written statement

55. Following our interviews, I wrote to OP, EF's manager who attended following the incident with Lord Pendry. OP provided us with a copy of their written notes:

"On Tuesday 6th of JULY At approximately 18:15hrs [EF] Called the SOMs office on [redacted] as [they] requested support.

[EF] was posted to East Division HOL, So I responded in the first instance as I was designated SOM 4 Lords.

When I arrived [EF] was clearly upset and shaken, saying [they] had just had an altercation with a

Thomas PENDRY [redacted personal data]. AKA Lord PENDRY.

I asked [EF] to recount the altercation So I could make contemporaneous notes, these are as follows and contained in my PNB they are not verbatim but I have checked with [EF] that they are a true reflection of [their] experience.

[EF] was on post in full uniform when [they] noticed a young MALE (details not taken) walking towards [them] wearing a paper pass issued to visitors, this MALE was not being escorted by a full pass holder as is policy. [EF] questioned the MALE to ascertain his destination and where he had come from and who was his initial escort to begin with. He answered he had been having dinner with PENDRY in a room we now know to be Peers Guest Room and had been directed this way.

[EF] accepted this to be true as it is a common occurrence, [EF] facilitated the MALES visit to the bathroom as per the current COVID19 guide lines. [EF] having ensured [their] post was covered, escorted the MALE to and from the toilet in Lower Waiting Hall.

Upon returning to Peers Guest room [EF] offered words of advice to the MALE saying that the current procedure is that all Visitors are to be escorted when moving around the building. [They] understood that it was not the MALE's responsibility to understand the rules of the house but that of the individual that was escorting him. [EF] had delivered this message in a way as not to cause offence but to remind and inform.

[EF] returned to post and after a short period not exceeding 30 mins, a MALE we now know to be PENDRY approached [EF] in a truculent manner, instantly made accusations of [EF] and [their] professionalism, and how [EF] had used inappropriate language when dealing with his MALE visitor.

[EF] refuted these claims, reiterating how [they were] following house policy and had done so in a polite and informative manner, when PENDRY, not adhering to social distancing, assaulted [EF]'s person by grabbing [EF]'s personal radio in an attempt to see [their] name badge.

[EF], uncomfortable with the lack of social distancing and unwarranted physical touching, withdrew offering [their] name and shoulder number, as it was PENDRY's obvious intention to complain about [EF's] conduct.

[EF] wishing to de-escalate the situation as this had become a scene, and was worried about the reputational damage to PSD and the HOL, decided to apologise for any offence or embarrassment that [their] actions may have caused as this was not [their] intention. PENDRY, satisfied that he had made his point moved on but was seen later in the vicinity of Peers Lobby. [EF] made [their] own contemporaneous note in a personal diary and [their] PNB.

Part of the altercation was seen by [KL] Door Keeper, [they] told [EF] that [they] didn't believe that PENDRY behaved in an appropriate manner and would report the matter within [their] own chain of command.

I can only speak to the account given to me by [EF] and its obvious effects on [their] wellbeing, as I did not witness the event.

Given my knowledge of [EF's] character and my observations of [them] in the work environment I believe on the balance of probability that [they are] being truthful about [their] conduct in this matter and acted entirely appropriately.

While the Members of the House of Lords have many privileges one of them is not to berate and assault uniformed members of staff; this is not a privilege afforded to anyone thanks to the Behavioural Code. I believe PENDRY acted unprofessionally, as he raised his voice, and assaulted [EF's] person, he did not seek in the first instance [EF's] recollection of events, merely presented his account as fact, I also believe that PENDRY does not understand how his position of power and influence affects others, while [EF] believed [they] had acted wholly correct, [they

were] worried what a complaint from PENDRY would mean for [their] career and potential disciplinary action. It is a commonly held belief that complaints against LORDs are often disregarded but complaints from LORDs will be enacted upon even if spurious.”

MN's letter

56. Lord Pendry asked me to obtain a copy of the letter written by MN to the Clerk of the Parliaments following the incident. This was provided to me by the Clerk of the Parliaments.
57. The letter confirmed that GH had been uncomfortable about his interaction with EF. MN reported that Lord Pendry was “upset by [GH’s] obvious embarrassment and remonstrated with the member of staff” which “caused offence”.

Unavailable evidence

58. I also asked Lord Pendry to provide contact details for GH so I could arrange to interview him. Although standing a little way behind Lord Pendry during the incident, GH may have seen and heard parts of the exchange between them and could have provided important corroborative evidence for either EF or Lord Pendry.
59. GH’s evidence would also have been helpful in understanding his comments reported by Lord Pendry about being “frogmarched” from the toilets and barked at by EF shouting “he was not escorted” and “lucky it was EF and no other as he could be in real trouble” as these comments apparently led to Lord Pendry approaching EF. Unfortunately, Lord Pendry did not want GH to be interviewed and declined to provide my office with his contact details.

CHAPTER 4: FINDINGS AND OUTCOME

60. Paragraph 11 of the Code of Conduct for Members of the House of Lords provides that:

“Members of the House should observe the principles set out in the Parliamentary Behaviour Code of respect, professionalism, understanding others’ perspectives, courtesy, and acceptance of responsibility. These principles will be taken into consideration when any allegation of bullying, harassment or sexual misconduct is under investigation.”

61. Paragraph 18 of the Code of Conduct for Members of the House of Lords provides that:

“Members are required to treat those with whom they come into contact in the course of their parliamentary duties and activities (including parliamentary proceedings) with respect and courtesy. Behaviour that amounts to bullying, harassment or sexual misconduct is a breach of this Code.”

62. Therefore, while all members ought to adhere to the principles and standards of behaviour set out in the Parliamentary Behaviour Code, and a failure to do so will be taken into account in investigations, it is only behaviour that amounts to bullying, harassment or sexual misconduct that constitutes a breach of the Code of Conduct for Members of the House of Lords.

63. There are no allegations of sexual misconduct or harassment in this investigation. The following paragraphs assess the evidence gathered against the definitions of bullying set out in Appendix B to the Code of Conduct.

Finding

64. The Behaviour Code, incorporated into the House of Lords Code of Conduct, describes bullying 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.”

65. For a finding of bullying to be made, all elements of this definition (the behaviour, the misuse or abuse of power and the effect on the complainant) must be proven by the evidence to the required civil standard of proof.

66. In investigating and adjudicating allegations of non-compliance with the Code, I am bound to act in accordance with the principles of natural justice. It is also a requirement that the civil standard of proof (balance of probabilities) is adopted by me to find the allegation proven against a member.

67. The facts of the incident are mostly agreed between the parties, save for the allegation by EF that Lord Pendry “grabbed” their radio. In his evidence, Lord Pendry admitted that he was angry and “very annoyed” during his conversation with EF and that he “ticked [them] off forcibly and verbally”. He described EF as “visibly upset” by having their authority challenged by him. While KL described Lord Pendry’s demeanour as “calm” by the time

they arrived, they also said that EF appeared “shocked” by whatever had preceded their arrival.

68. All parties agreed that Lord Pendry was verbally aggressive towards EF, which in itself is sufficient to show that Lord Pendry exhibited intimidating behaviour. Additionally, EF’s description (both contemporaneously to OP and subsequently in interview with me) of the way in which they were approached and berated by Lord Pendry, together with KL’s corroboration that Lord Pendry made physical contact with EF’s radio in an inappropriate, unwarranted and non-socially distanced manner, in my view clearly meets the threshold for intimidating behaviour and demonstrates on the balance of probabilities that such intimidation occurred.
69. I also consider that there is a clear power imbalance between Lord Pendry and EF, as will often be the case between members of Parliament and staff. Lord Pendry demanded EF’s name and number in order to report them for allegedly mistreating his guest, yet in my view it was he who had breached the rules and EF who was simply trying to enforce them. Not only was EF doing the job they are employed to do, they were also following the official parliamentary guidance given to all members of the parliamentary community to challenge anyone without a pass. Had Lord Pendry accompanied his guest as the rules require, however, this unfortunate incident would have been avoided entirely.
70. EF’s evidence about the effect of the incident on them, both at the time and in the aftermath, was particularly compelling. I am persuaded that Lord Pendry’s behaviour left them feeling almost all of the descriptors in the definition of bullying: “vulnerable, upset, undermined, humiliated, denigrated or threatened” and that it was reasonable for them to feel that way.
71. **I therefore conclude on the balance of probabilities that Lord Pendry’s behaviour towards EF amounted to bullying and he has breached the Code of Conduct.**

Lord Pendry’s response to the draft report and findings

72. In accordance with paragraphs 154 and 168 of the Guide to the Code of Conduct, Lord Pendry and EF were provided with a copy of the draft factual report and my provisional findings and were offered the opportunity to provide comments. Lord Pendry was also offered the opportunity to provide any material he wanted me to take into account when considering a recommended sanction.
73. Lord Pendry’s response is reproduced at Appendix 1. My response to the points he raised is included at Appendix 2.
74. Apart from two small sections which Lord Pendry argued were not relevant to the findings of the report, and which I agreed to remove, I did not make any other changes to the report after reading Lord Pendry’s response.

Sanction

75. When I uphold a complaint of bullying, harassment or sexual misconduct, I must produce a report for publication and identify an appropriate outcome, which can range from the least severe outcome of ‘no action’ to the most severe option of ‘expulsion’ from the House.

76. Three possibilities follow:
- if the conduct complained of, though justified, is towards the lower end of the scale of seriousness, is acknowledged by the member concerned, and is agreed by both the complainant and the member, the matter can be dealt with by remedial action;
 - if remedial action is proposed, but either the complainant or the member does not agree to it, my report and recommended sanction go to the Conduct Committee for resolution;
 - if remedial action is inappropriate, my report and recommended sanction also go to the Conduct Committee.
77. If my report goes to the Conduct Committee, my findings and my recommended sanction can be appealed by the respondent. Nothing will be published until the outcome of any appeal, at which point the Conduct Committee will publish its own report, to which my report will be annexed.
78. In this case I do not consider remedial action to be an appropriate sanction.
79. Lord Pendry did not provide me with any material to consider when deciding a recommended sanction. However, I have considered the contents of MN's letter, in particular when she said that GH was "made to feel very uncomfortable by a member of [the] security staff". While this does not in any way excuse Lord Pendry's subsequent actions, it does provide some important context and mitigation for why he was so upset on behalf of his guest.
80. I have also taken into account the further mitigating factors, namely that Lord Pendry's encounter with EF was an isolated incident of a short duration and there has been no repeat bullying behaviour towards EF.
81. However, I must also take into account the aggravating factor that Lord Pendry continues to believe that his actions were proportionate and justified, along with his refusal to acknowledge the power imbalance that existed between him and a member of the House staff. In so doing, I find he has shown little insight or contrition in respect of his conduct or its impact on the complainant.
82. In terms of the impact of Lord Pendry's behaviour on the complainant, Lord Pendry said that he ticked the complainant off 'forcibly and verbally' and that the complainant was 'visibly upset'. The complainant said that since the incident they have felt very vulnerable and uncomfortable in working at that end of the estate. They also said that the incident made them feel uncomfortable and well as shocked and upset. They told me they suffered from anxiety and a history of PTSD (from their days in the army) and depression and that the incident had set them back a lot just as they were getting on top of managing it all.
83. I have carefully considered all the options available as sanctions for me to recommend to the Conduct Committee. Some, such as an apology or training, I dismissed as inappropriate due to Lord Pendry's lack of acknowledgement or contrition. Others, such as expulsion or a long suspension should be reserved for the most serious breaches of the Code or where lower sanctions

are found to be ineffective in ensuring the member abides by the Code, and I considered them to be inappropriate and excessive in this instance.

84. I am aware that the House has not imposed a short suspension on a member before. However, comparing this case with previous ones, I believe that it falls between less serious breaches where remedial action has been agreed, and more serious cases where longer suspensions were more appropriate.
85. **I therefore recommend that the appropriate sanction in the circumstances of this case is for Lord Pendry to be suspended from the House for one week.**

Conclusion

86. The Parliamentary Behaviour Code requires all members of the parliamentary community, among other things, to:
- think about how their behaviour affects others and strive to understand their perspective;
 - act professionally towards others; and
 - ensure Parliament meets the highest ethical standards of integrity, courtesy and mutual respect.
87. **Officers in the Parliamentary Security Department provide an important service to everyone who works on the parliamentary estate and should expect to be treated with courtesy and respect by all passholders. It is never acceptable to approach a member of staff in a threatening manner or to touch them without their consent. Lord Pendry’s comments about staff “flexing their muscles” against MPs and Peers exhibit an attitude which is out of step with the expectation that all members of the parliamentary community are entitled to be treated professionally and respectfully in the workplace, and to seek a remedy when they are not, in accordance with the Independent Complaints and Grievance Scheme.**
88. **Making this complaint and giving evidence to me was not an easy experience for EF, and I would like to place on record my respect for them in going through this process. I hope that it will serve as a reminder to staff and members that unacceptable behaviour will not be tolerated in the House of Lords.**

APPENDIX 1: LORD PENDRY'S RESPONSE TO THE DRAFT FACTUAL REPORT AND FINDINGS

Dear Mr Khan,

Reply to your 19th January 2022 letter inviting my comments on factual inaccuracies in your draft report with reasons and evidence.

Thank you for your letter of 19th January 2022, enclosing a draft of your report, and giving me the opportunity to address any factual inaccuracies and your provisional findings.

By way of introduction I should make clear that for reasons of clarity I have used the names and appropriate pronouns for individuals but please feel free to anonymise and pluralise them in your final report should you consider it necessary. As you know I have also taken some legal advice, but this letter comes from me.

As you also know, I am [redacted] years of age, and have worked in the Palace of Westminster since 1970 as an MP and then as a working peer since 2001. I do have some [redacted personal data] but consider them of no relevance whatsoever to the matters which you are considering.

You are also aware that there was a complaint about me arising from an incident on 1st July 2021, just 5 days before the incident which you are currently investigating. That earlier complaint was made promptly, and by [redacted]. You dismissed the complaint. I therefore resent the implication, made by some of your witnesses, and which finds expression in your draft report, that I have any kind of reputation for being difficult with staff. If some door keeping staff take that view then it is clearly unmerited.

I have, in over 50 years in public service, sought to uphold high standards, and that is precisely what I was endeavouring to do with [EF] on 6th July 2021. [They] then decided, some 6 weeks later, on 24th August 2021 to make a complaint about me. You revealed the existence of that complaint to me a further 6 weeks later, on 1st October 2021. It is also clear from the evidence that you have disclosed to me that there were considerable "discussions" between door keeping and security staff before [EF] made [their] first notes, and further "discussions" before [they] made [their] complaint, and that [they were] prompted by others to make it. The concluding comments in your draft report, referring to [their] "courage", ought to be read in the light of that timetable and the obvious influence of others who appear to have had their own axes to grind against me.

I should also point out that on 21st July 2021 I attended the training course on bullying, harassment and sexual misconduct, which I found of considerable value in confirming my understanding of how bullying is unacceptable and the importance of calling out bullying behaviour. I should add that nothing in my conduct on 6th July 2021 amounted to bullying as explained to me during that course, or as defined in Appendix B to the Codes of Conduct.

There are two matters in your draft report with which I fundamentally disagree. The first relates to the facts of what occurred, which is alleged to amount to an assault, and the second is as to whether what occurred could properly be found to be "bullying".

[Redacted personal data]

Finally by way of introduction, I appreciate that the definition of bullying in Appendix B includes conduct which the person experiencing it perceives (ie rightly or wrongly) to be bullying, but only where it was reasonable for that person to have perceived the conduct as bullying (as opposed to a legitimate reprimand). In this case, I, an [redacted] year-old Peer, took a much younger staff member to task for “frogmarching” a young guest of my invitation. Anyone would conclude in those circumstances that the Peer was seeking to uphold the standards of the House. No reasonable person would consider it to amount to “bullying”, particularly since it was momentary, resulted in an apology, and the parties left on apparently amicable terms. If this amounted to “bullying” it would never be possible for standards to be upheld, or for poor performance ever to be addressed or corrected.

The facts

I did not make physical contact with [EF] or [their] radio.

[EF] has given at least 5 versions of the incident on 5 separate occasions, which I set out (so far as you have made them known to me³) in chronological order:

Version 1

[EF] first reported the incident (and “gave a statement”) to [their] SOM, [OP], on the day in question. In interview [EF] said,

“The manager, [OP], came up to assist and we started to take sort of notes of what happened. And it was only at that point that people started saying things that I was unaware of”.

This statement/these notes have not been disclosed to me but would of course demonstrate that [EF] was informed of matters at that time which [they] had not [themselves] witnessed.

The “people” concerned have not all been identified, but clearly provided information to [EF] and I strongly suspect that [EF]’s later evidence was tainted by being told of the matters of 1st July which I answered and you later dismissed, and of other matters to my unfair prejudice because I have not been able to answer them.

At paragraph 54 of your draft report you quote from [OP]’s written notes, which are not timed and are said not to be a verbatim account from [EF], but state that [EF] told [OP] that,

“PENDRY, not adhering to social distancing, **assaulted [EF’s] person by grabbing**

[EF’s] personal radio in an attempt to see [their] name badge”.

3 Para 29 of the Code of Conduct requires you to act in accordance with the principles of natural justice and fairness. It is not clear to me or to Queen’s Counsel advising me why you have refused, when applying these rules, to provide me with copies of some of the primary evidence upon which you have relied. I respectfully invite you to reconsider disclosing the primary evidence to me and allowing further comments from me following all primary evidence disclosure, particularly in the light of the discrepancies in the evidence which I have been able to address, where primary evidence has thus far been provided (with the assistance of my legal team). However that exercise is presently impossible in the case of the evidence given by [KL] and [OP], as you have refused requests from my lawyers to provide me with copies of their primary evidence, citing “the civil standard of proof” which is not a valid reason and creates unfairness in the process.

Version 2

[EF] made a diary entry (time of entry not recorded, but [EF] says in interview that the diary entry came before the pocketbook entry):

“He demanded to know my name, moved **touched my radio** to reveal my name badge. **L.P. touched me**. ...Invasive of my personal space”

Version 3

[EF] made a pocket book entry (time of entry not recorded, but said to be the next day):

“He **grabbed at my radio touching me** to reveal my name badge ... Whilst my personal space had be invaded I didn’t no.”

Version 4

[EF] made a written complaint on 24.8.21:

“A peer unknown at the time approached me **grabbing my radio** demanding to no my name”.

In the terms quoted by you in your letter of 1.10.21 [EF] made no allegation of assault, and no allegation that I had touched [them].

Version 5

[EF] said on 22.10.21 in interview:

- i. “That’s when he **grabbed my radio** and was demanding to know my name. I took his hand from off my radio” (p12)
- ii. “He **moved my radio** to see my name badge ...” (p14)
- iii. “The fact that he **grabbed my radio**” (p15)
- iv. “**He grabbed my radio** ... and **a little bit of a tussle** took place while I took my hand to remove his hand and gain my radio back” (p16)
- v. [EF] agrees (p17) to a leading question that Lord Pendry had “**his hands on**” the radio, for the first time suggesting that I used two hands
- vi. “It would have been seconds ... I wasn’t sure (which hand he used)” (p17/18)
- vii. [[KL] arrived] “as **I was being grabbed** ...” (p29)

As can be seen, the earliest record (at least the earliest thus far disclosed to me) made by [EF] alleges that I “touched” [their] radio and “touched” [them] and over time this has metamorphosed into an allegation that I “grabbed” [their] radio, with one or two hands, and that I “grabbed” [EF themselves]. However the complaint itself (24th August 2021 and the further clarification of 23rd September 2021) made no allegation of assault.

The allegation of “grabbing” appeared in [OP]’s (untimed and undisclosed) note, but not in [EF]’s diary entry. It appears that [EF] has adjusted [their] later evidence to attempt to conform with [OP]’s evidence, but [OP] was not an eye witness.

The door-keeper [KL] approached from behind, so [their] view would have been partially obscured until [they] actually arrived. [Their] notes⁴ and statement⁵ have not been disclosed to me but your draft report (para 8) states that “they were witness to Lord Pendry touching EF’s radio”. At para 49 you quote [KL] as stating I “didn’t move it, just pushed it to [EF’s] side” ... and that [KL] “would not describe Lord Pendry as grabbing the radio, but that he definitely did touch it”, that there “was ‘no grabbing’ action but Lord Pendry “did reach out and did touch EF, did touch the radio and moved the radio”. [KL] says that I was “calm” and “not aggressive”. [KL] denies that there was a “tussle” in which [EF] regained control of [their] radio.

I am concerned that your draft report has not been the result of a critical analysis of this evidence, with its discrepancies, and that you have proceeded on the basis that I aggressively “grabbed” the radio, when the third party witness [KL] categorically states that this did not occur. You have also reached a provisional conclusion that I assaulted [EF] when [they] did not allege any physical contact in [their] complaint. On any view the discrepancies in the detail of [EF]’s accounts represent an exaggeration of the incident over time. I respectfully urge you to reconsider what you accept.

Another area where there is a discrepancy is whether [EF] apologised to [GH]. [OP]’s note records that [EF] “decided to apologise/or any offence or embarrassment that [their] actions may have caused ...”. I agree that [EF] made this apology, but [EF themselves] does not admit to it in any of [their] other accounts. When you interviewed [them they] denied saying anything after giving [their] name and number (p27). You have not disclosed to me what [KL] says about [EF] offering an apology to [GH].

As you know, I considered [EF]’s apology to be very important, as it recognised some wrongdoing on [their] part, satisfied [GH], and meant that (so far as I was concerned) the matter had been resolved there and then with honour on both sides. As you know, it was therefore of some surprise to learn of [EF]’s complaint on 1st October 2021.

Your draft report also quotes, selectively and in way which distorts its meaning, at para 56, from [MN]’s letter to the Clerk of the Parliaments. The two sentences read in full as follows:

“Lord Pendry was upset at my son’s obvious embarrassment and remonstrated with the member of staff and unfortunately has caused offence. My son and I are sorry [they have] been upset but I do understand why [Lord Pendry] was so indignant.”

[MN] was making the point that she and [GH] were sorry that my remonstrations caused offence to [EF], not that her view was that I was being offensive.

Without considering the full context and meaning of the letter the validity of your provisional conclusions is undermined.

4 [EF] says in his notebook that [OP] took notes from the “doorkeepers” (plural) presumably including [KL]

5 You formally interviewed [them] on 27.10.21 (Draft report para 47ff) but have refused to provide the transcript to my solicitors or me, citing the “civil standard of proof” as a reason but the civil standard of proof does not permit lack of disclosure of key primary evidence in the determination of a dispute of fact. The civil standard of proof is the evidence based approach on a balance of probabilities

You declined to provide me with a copy of the letter. I cannot understand why, when you were relying on its content, but happily [MN] retained a copy, which she has provided to me. She has been a fairly regular visitor to Westminster Palace for 40 years. She makes the further point in her letter to the Clerk of the Parliaments that [GH], “was made to feel very uncomfortable by a member of your security staff” and that she fully understands why I reprimanded [EF] as a result. She goes on to reminisce about the public facing charm that Parliament security staff used to be known for and suggests that had [EF] been kind to [GH] rather than making him feel uncomfortable, all would have been well.

Upon your request for [GH]’s contact information, I felt I could not pass them to you because I had agreed with [MN] to protect her son from going through what we considered to be an unnecessary process of having to disturb [redacted] by acceding to the Commissioner’s requests for his contact information. [MN] and I did not consider it fair that an innocent guest in the Palace of Westminster should have to be contacted by the Commissioner for Standards following his simply having needed the loo and then being treated rudely by a member of the security staff who I reprimanded for [their] discourtesy.

In fact, I did not have [GH]’s contact information as I have always communicated with [them] through [MN] and at [redacted], however he has provided the following account to my lawyers this week on the understanding that his [redacted] will not be disturbed by him being troubled further,

“I asked waitresses where the toilet was then walked in that direction. I asked a policeman for directions of where the loo was then he asked a guard to come over. The guard asked me what I was doing and [they were] quite cross that I was not with an escort. I had no idea it was necessary to be escorted to the toilet. [They] seemed quite cross and said I needed to have someone with me then walked me back to where ... Lord Pendry was sitting, where we were drinking tea. The security guard seemed quite annoyed that I was not with an escort. When I had asked the waitress staff for directions to the loo they had not told me that I needed to be escorted. [The security guard’s actions felt over the top and in an unfriendly manner. I was taken aback.

I was with [Lord Pendry] when he initially approached the security guard about this then I moved away. I did not see any physical element to their conversation.”

The fact that it was the waitresses who directed [GH] to the toilet has been corroborated by a meeting held between myself, Stephen Perkins, head of catering and a managing member of the waitressing staff named [redacted], who recalls directing him to that toilet on 6th July 2021 and telling him to make his own way back and, if asked, to mention that he was having tea with Lord Pendry. That meeting was held on 31st January 2022.

There are some other areas of your draft report which are factually inaccurate, although these do not have bearing on the important issue, which is whether or not I assaulted [EF].

They must however be highlighted and rectified:

1. [Redacted following removal of text from the report].
2. [Redacted following removal of text from the report].

3. In paragraph 32 of the draft report it is stated that I pointed at [EF]. I did not point but I do recall [GH] pointing at [EF] in a non-aggressive way to identify [them] as the staff member who had acted discourteously.
4. In the draft report, also on paragraph 32 it is recorded that [EF] alleges that [KL] tried to calm me down. But [KL] says that I was “calm” and “not aggressive” when [they] approached me (para 50). Thus there was no need to calm me down and once again [KL] clearly contradicts [EF], further undermining [EF]’s credibility.
5. In para 49 it is also suggested by [KL] that [they] encouraged me to “just ask [their name]”, rather than engage in touching. The factual basis of this assertion is challenged as I clearly stated in my interview: after asking what was going on between me and [EF], [KL] said nothing.
6. Your recital of the evidence of [OP] (paragraph 54) extends over 4 pages. [They were] not present at the incident, and [their] opinions as to my character and the character of [EF] are not only unwarranted and unfair, but irrelevant to the present report. If character is relevant to your decision then I should be afforded the right to submit my own character references to compare my own 50 year unblemished Parliamentary career, and full disclosure should be given of [EF]’s previous history, to ensure the credibility of both parties can be weighed up fairly. For example, Baroness Boothroyd has written of my character that “we have trodden the same paths ... determined to change our world for the better”. Her Ladyship and others will, I am sure, be willing to provide character references if character is considered a relevant factor.
7. [KL] was not present at the early stages of the incident where I am alleged to have approached [EF] in an aggressive manner. Therefore [they] could not have witnessed how the incident started. [They were] a participant (with other unidentified persons, including doorkeepers and security staff) in the subsequent discussion about me apparently chaired by [OP], and [their] evidence is clearly tainted in this respect.
8. In my interview, I stated that [EF] seemed flummoxed, surprised and visibly upset that I was challenging [their] authority. As my testimony and evidence states, [EF] had abused [their] authority in frogmarching [GH] and acting in an intimidating way towards [them]. I was indeed angry and upset, but I did not lose control and a non-aggressive reprimand does not justify a conclusion that on the balance of probabilities I abused my power, which is a requirement for having breached the Behaviour Code in the House of Lords. I was acting quite reasonably in response to [EF] conducting [their] duties in an unkind, overbearing and improper manner.

What is “bullying”?

[Redacted personal data]. Poor performance or disrespect needs to be addressed. I was doing no more and no less than pointing out to [EF] that [their] conduct in “frogmarching” a young and impressionable guest was unacceptable. [MN] says much the same thing in her letter, although you did not quote that part.

Bullying is a concept which was made quite clear to me at the training that I attended, and is set out (the ACAS definition) in Appendix B to the Codes of Conduct.

What I was doing was not bullying. Even if [EF themselves] perceived it as bullying that does not amount to the “offence” of bullying set out in the Code unless it was objectively reasonable for [them] to have perceived such conduct as bullying. It was objectively reasonable for [EF] to perceive that I was upset with [them], and that I was criticising the way that [they] had conducted [themselves]. [They] could equally reasonably take it as a reprimand, but that is not bullying.

None of the other characteristics of “bullying” in the definition (behaviour which is offensive, intimidating, malicious or insulting) were present. There is no suggestion of me raising my voice. This was a quiet area. I was not seeking to humiliate or make an example of [EF] and would never seek to humiliate anyone. I am a practising Roman Catholic which to me means I use my best endeavours to be kind to others at all times.

As the definition of bullying in Appendix B makes clear, it is only the placing of unreasonable expectations on someone’s job performance that amounts to bullying. What I was seeking to do was a perfectly reasonable response to what [EF] had done to a guest.

I would also add that there was no abuse or misuse of power on my part. As a working peer I am a public servant like anyone else who works in Westminster. [EF]’s job is to keep us, and the public, safe. This is not a question of hierarchy, and I have no formal power over [them]. I was [redacted] years old and [redacted personal data]. I do not know [EF]’s age, but [they are] considerably younger than me [redacted]. We had (to my knowledge) never encountered each other before. There was no “history” or malice.

Conclusion

I hope that you accept that there was no intention to bully on my part, and no intention to breach the rules of the Code of Conduct.

I am conscious that you have chosen not to disclose to me much of the evidence. I have therefore had to make certain assumptions that the extracts quoted in your draft report are fair and balanced. In the two instances where I have had the primary evidence ([EF]’s varying accounts and [MN]’s letter) I hope that I have been able to point out how the picture is not in fact as straightforward as your draft report supposes.

I appreciate that you are duty bound to reach a conclusion on the balance of probabilities. I respectfully invite you to consider that it is more probable than not that I did not assault [EF], whether in the various ways that [they have] described or at all.

It is also more probable than not that my conduct towards [EF], which I describe as a reprimand, and which [MN] described as remonstrating, was a reasonable and justifiable reaction to what I perceived (rightly or wrongly) as poor performance and discourtesy on [their] part, did not amount to bullying.

I therefore urge you to reconsider the conclusions in your draft report, and to reach a conclusion that, on balance of probabilities, there was no misconduct on my part.

THE RIGHT HONOURABLE LORD PENDRY OF STALYBRIDGE

Privy Councillor

APPENDIX 2: THE COMMISSIONER'S RESPONSE TO LORD PENDRY'S RESPONSE TO THE DRAFT FACTUAL REPORT AND FINDINGS

Dear Lord Pendry,

Thank you for your letter of 24 February and your views which I have carefully taken into account. Specifically, you raise two areas of concern on which you fundamentally disagree: (i) there was an assault, and (ii) that the conduct amounts to bullying.

In relation to the 'assault' point, I believe you have misread the draft report - the reference to an 'assault' was made in the evidence quoted from the doorkeeper, referred to as KL, at paragraph 52. [They] described your conduct in that manner. I have not in my findings mentioned the word 'assault' although I have found on the evidence based on the balance of probabilities that you made physical contact with EF's radio in an inappropriate, unwarranted and non-socially distanced manner. I also do not consider that there are any material discrepancies in EF's descriptions of the incident.

With regard to your conduct and the definition of bullying in Annex B to the Code of Conduct, I have assessed the evidence in accordance with the required standard of proof and have found that your conduct meets the definition of bullying. I have carefully considered your views but I am afraid there is nothing you have stated that changes my findings.

I note that despite my repeated requests for you to provide me with the contact details of [GH] so that I could interview him, this was not forthcoming based on your desire not to involve him in this matter. However, I note from your letter that he has now provided some evidence to your lawyer which you have forwarded to me for my review. With the greatest of respect, this is not how I expect to receive evidence as part of an independent and impartial investigation. I have no idea when he was interviewed, or what questions he was asked or by whom, nor whether this is only part of fuller statement or whether he has given his consent to pass on the information to me. In consequence, I am not prepared to take it into account in the manner it has been provided to me. If the gentleman would like to email me his statement directly or to be interviewed, I am prepared in the interests of fairness at this late stage to receive his evidence by 5pm Wednesday 2 March. Please let Ms. Davidson know the position as soon as possible please.

Addressing each of your other numbered points in turn:

1. After consideration, I have reflected on your comment and have decided to remove this section.
2. After consideration, I have reflected on your comment and have decided to remove this section.
3. Paragraph 32 simply details the evidence I received. I made no findings on this point.
4. Paragraph 32 simply details the evidence I received. I would expect some minor discrepancies between accounts in any investigation and I do not consider that this undermines EF's credibility. The core facts of [their] account are corroborated.

5. Paragraph 49 simply details the evidence I received. I made no findings on this point.
6. I do not consider OP's evidence to be irrelevant. [They were] present with EF immediately following the incident and [their] account supports what EF has told us, as well as providing an insight into the effect on EF. As part of any appeal you submit to the Conduct Committee, you can, of course, provide character references if you wish.
7. The report does not say that KL was present at the start of the incident and neither did [they]. I found [them] to be a credible witness and I do not consider that [their] account was tainted by any conversations after the event.
8. As I have stated, I do believe your actions amounted to bullying. If you believed that EF had behaved poorly, you could have raised it with their manager or submitted a complaint about them to the House authorities. I do not consider it reasonable in the circumstances set out in this case, that you, as a member of the House, with the considerable power you hold, should berate House staff publicly and in the manner you did. That you do not recognise the considerable power imbalance between you and EF does not mean that it does not exist and I would encourage you to reflect on this point in your future dealings with House staff.

For these reasons, I will not be significantly amending my report and will shortly be sending my final report to the Conduct Committee and writing to you with details of the appeals process.

For the avoidance of doubt, I should remind you that the requirements of confidentiality remain in place until any report is published.

Yours sincerely,

Akbar Khan
Commissioner for Standards

Annex B: Appeal documents

APPEAL OF LORD PENDRY PC TO THE CONDUCT COMMITTEE

Appeal against Mr Akbar Khan's findings in his 3.3.22 report to the Conduct Committee

I thank the Learned and Honourable Committee for affording me further time and further evidence to assist me in writing this appeal and completing my understanding of the whole situation.

For reasons of my own clarity, I have used the actual names and the apparently appropriate pronouns for individuals when referring to them; I hope this does not inconvenience the Committee.

Supporting material included for Committee's consideration:

- (A) [MN's] letter in manuscript and typed form referred to at Mr Khan's paragraph 56 & 57;
- (B) [GH's] summary conveyed to my lawyers;
- (C) A copy of my full letter to Mr Khan dated 24 February 2022;
- (D) A copy of my diary notes from 6 July 2021 showing booking for 2 guests;
- (E) Transcript of [KL]'s interview with Mr Khan, supplied to me by Lady Manningham-Buller upon my request.

Grounds of Appeal:

1. Mr Khan improperly withheld parts of the evidence of [MN] when cherry picking a "summary" of her evidence at his paragraph 57; those parts assert that [GH] was maltreated by [EF] and that her son approached [EF] rather than vice versa: as asserted by [EF];
2. Mr Khan refused to take into account the summary evidence of [GH], which described how [EF] became angry with [GH], in poor performance of [EF]'s job role;
3. Mr Khan failed to apply the principles of fairness and natural justice to the evidence of the doorkeeper [KL] in his summary of that evidence at his paragraphs 48-54 by finding that [KL]'s evidence supported [EF]'s allegations when the factual aspects of [KL]'s evidence contradict the details of [EF]'s allegations of bullying;
4. Mr Khan unfairly placed too much evidential weight on the evidence of [EF]. The weight of [their] evidence ought to have been reduced because it is inconsistent (comprising 5 differing versions) and further reduced because it is contradicted significantly by the evidence of:
 - (i) [KL] (the Doorkeeper);
 - (ii) [MN] (my guest);
 - (iii) [GH] (her son);
 - (iv) Lord Pendry (myself);

5. Mr Khan unfairly placed too little or no evidential weight on the evidence of:
 - (i) [MN] (my guest);
 - (ii) [GH] (her son);
 - (iii) Lord Pendry (myself).
6. Mr Khan thereby had insufficient regard to important and relevant evidence prior to applying the balance of probabilities test, resulting in an unfair finding that flowed from flawed reasoning;
7. Mr Khan's ultimate finding of bullying was therefore plainly wrong and made in error.

The erroneous finding of Mr Khan:

“I conclude that on the balance of probabilities that Lord Pendry's behaviour towards EF amounted to bullying and he has breached the Code of Conduct.”

I shall use the same paragraph numbers as Mr Khan's report and comment on particular paragraphs where I challenge the report as follows:

Paragraph 5

Mr Khan writes at his paragraph 5 that:

Some 7 weeks following my discussion with [EF] on 6th July 2021, [they] complained that [they] had:

- (i) “found one of [my] guests walking unescorted”

and that I

- (ii) “grabbed their radio”.

At paragraph 5, Mr Khan has omitted the following relevant evidence on those 2 points:

- (i) [MN] wrote to the Clerk of the Parliaments on 12th July 2021 and stated that it was [GH] who approached [EF] and asked for directions rather than [EF] who “found” him “unescorted” as follows:

“[My son] was surprised by [EF's] reaction when he asked for directions to the bathroom”

This is relevant because it undermines [EF]'s credibility.

- (ii) [KL], the Doorkeeper, stated in [their] interview with Mr Khan that [they] saw [EF] and I talking; that I presented as calm, [KL] approached us and during my discussion with [KL] the doorkeeper, I reached out and somehow touched [EF]'s radio - but did not grab it, as alleged in [EF]'s initial complaint. [KL] states that I did not move [EF]'s radio but somehow touched it whilst speaking with [KL]. I have no recollection of touching [EF]'s radio. If I did touch [their] radio, it was quite accidental because I did not know that [they] had a radio. If – as [KL] states – this happened whilst I was in a discussion with [them] ([KL]), I must therefore have been looking at [KL] at the time that I moved my hand, which is evidence of accidental contact. I do not

recall that asserted fleeting moment of accident, but [KL] does. [KL]’s words on this point are as follows:

“I just saw them talking and I saw the guest a bit further down by the Pugin room... [EF] looked shocked. Lord Pendry wasn’t aggressive; I have said that to the Yeoman Usher. He wasn’t aggressive; he was very calm...[I did not see any gesticulating from Lord Pendry at that stage or before... no pointing a finger or waving a hand or anything of that nature...when [I] arrived... Lord Pendry was calm...He wasn’t aggressive; he was calm. I said, “Hello, Lord Pendry”...I just stood there then because I could see there was something going on, and Lord Pendry said, “I am not happy with the way this officer is treating my guest”...Then Lord Pendry reached out. He touched [their] radio...lightly. It wasn’t forcefully....

AKBAR KHAN: Would you say that Lord Pendry grabbed the radio?

[KL]: No, definitely not. Definitely not.

AKBAR KHAN: Okay. So there was no grabbing action

[KL]: No, no, no.”

This is relevant as evidence that I did not grab the radio as alleged by [EF]. Having now seen the balanced evidence of [KL], it seems I may have inadvertently touched it by reaching out when looking at [KL] during a conversation with [KL], thereby not looking at [EF] and accidentally lightly touching [their] radio by a momentary accidental reach of gesticulation. I have always denied grabbing the radio as was the allegation. Now that I have read [KL]’s interview with Mr Khan, I can see that there may have been an accidental light touch that does not meet the definition of bullying.

Of course, I am sorry for any accidental light touch of the radio and I accept that in future, any complaint I may have should be filed in writing rather than raised in the traditional way that I did with [EF]. I also feel sorry for [EF]’s suffering from PTSD from [their] Army service. However, these matters do not give [EF] the right to make allegations, perhaps through misremembering the facts, that:

- (i) I became angry with [them] when I did not (my version supported by [KL])
- (ii) I pointed my finger at [them] when I did not (my version supported by [KL])
- (iii) I grabbed [their] radio for a few seconds when I did not (my version supported by [KL])
- (iv) I bullied [them] when I did not (my version supported by [KL])
- (v) I breached the House of Lords code of conduct when I did not

Paragraph 7

Mr Khan writes at his paragraph 7 that:

- (i) I acknowledged I was angry and upset by the way my guest had been treated by [EF] and I wanted to confront them about their behaviour;
- (ii) I denied grabbing the radio;
- (iii) I did not touch [EF himself] at any point;

- (iv) I also disputed some other details of [EF]’s account.

At paragraph 7, Mr Khan has omitted the following relevant evidence on those 5 points:

- (i) In my interview with Mr Khan, I clarified that I raised the matter of maltreatment of my guest with [EF] in a serious tone and that [EF] at that point initially denied any wrongdoing but then promptly apologised to [GH] if [they] had upset him in the following way,

“You mustn’t talk to people like that”, guests of Peers, and—I can’t remember exactly what I said. It was in general terms. I was very annoyed and telling [them] that I didn’t expect that of any of my guests...[They were] sort of virtually saying, “Oh I didn’t do anything”, that sort of thing ... At one point—This is the point where I terminated it really. [They] shouted to [GH], who was 20 yards away, “Were you”—“Did I upset you?”, or some words to that effect ... [EF] said, “If I did I am sorry”. So at that point I cut it off. I thought that’s it. [They’ve] apologised”

In the Doorkeeper’s—[KL]’s—interview with Mr Khan, [they] state that,

“Lord Pendry wasn’t aggressive... he was very calm”

This is relevant as it shows [EF]’s initial immediate blanket denial of wrongdoing; then [their] honourable acceptance of wrongdoing through [their] apology as what I considered an end to the matter; also that I was perceived by the Doorkeeper – who witnessed the conversation initially from a distance then close up as [they] came to speak to me - to be “very calm” : in contrast to the suggestion at Mr Khan’s paragraph 7 that I had somehow confronted [EF] in a bullying manner.

[EF] states that [KL] came up from behind and that [KL] may not have seen anything when in fact [KL] saw a lot of our conversation.

- (ii) The doorkeeper [KL] stated in [their] interview with Mr Khan,

AKBAR KHAN: Would you say that Lord Pendry grabbed the radio?

[KL]: No, definitely not. Definitely not.

AKBAR KHAN: Okay. So there was no grabbing action

[KL]: No, no, no.”

This point is of fundamental importance: [KL] directly undermines [EF]’s allegations that I had “grabbed” [their] radio. Grabbing cannot be accidental but a light touch when in eye contact and conversation with [KL] clearly can be, if that is what happened. I did not know that security had radios but if lightly touched by accident, that is not – and was not – bullying.

The fundamental importance of this point is underlined because [EF] states in [their] interview with Mr Khan that [they] assert that I was angry with [them] because of the way I approached, pointing my finger at [them] - and because I allegedly grabbed [their] radio.

“AKBAR KHAN: What was there particularly about his tone and manner that made you think he was angry?

[EF]: Just the way he approached and the fact that he grabbed my radio.”

Mr Khan finds that I “berated” [EF] and to berate someone, anger must be present.

I did not exhibit anger but composure, as the Doorkeeper described. I did not point my finger at [EF], as the Doorkeeper has corroborated.

- (iii) My assertion that I did not touch [EF herself] at any point is supported by the evidence of the Doorkeeper [KL]. It is asserted as opinion in [KL]’s evidence that this might amount to assault but it should be clarified that an accidental light touch to a radio is not assault. It is clearly a relevant matter for this appeal to decide on the balance of probabilities if [EF] has accurately recalled events or not when [they] allege that I grabbed [their] radio, or if there was an accidental brief light touch of the radio, which has been exaggerated in error in [EF]’s mind in the passage of time as a “grabbing for a few seconds”. I state categorically that I have no recollection of any touching of the radio; there was no intention to touch any radio which I did not even know existed. I did not bully [EF], who may subconsciously or otherwise be trying to deflect a complaint against [them] : a complaint raised by [GH] to myself; then by myself directly to [EF]; also a letter of complaint (albeit not yet a formal complaint) raised by his mother [MN], to the Clerk of the Parliaments.
- (iv) The other details of dispute are relevant to [EF]’s credibility. For example, [MN]’s letter (contemporaneous evidence in this investigation because it is dated 12th July 2021) states clearly that,

“[My son] was surprised by [EF’s] reaction when he asked for directions to the bathroom”

This is relevant to be factored in at Mr Khan’s paragraph 7 because it supports what I said in my interview: that [EF] was in denial of any wrongdoing, so has alleged that [they] approached [GH] rather than the other way round. It is also relevant that [MN] recalls that [GH] had asked [EF] for directions. Neither [GH] nor [MN] have any reason to mislead about that point. I feel sorry for [EF] because of [their] PTSD but [they have] misled Mr Khan, which I cannot accept because the facts alleged are wrong. I am sorry for any accidental touching of [their] radio which was totally unintentional if that happened. I did not bully [them] and I wish [them] well, as I did that day.

Paragraph 8

Mr Khan has failed to mention at his paragraph 8 that:

- (i) the evidence of the doorkeeper [KL] undermines the allegation of [EF] that I grabbed [their] radio;
- (ii) [KL]’s evidence undermines the erroneous “finding” made by Mr Khan in his letter to me (page 28, paragraph 8 of his report) that I “berate[d]” [EF]. The Oxford definition of berate is to criticise someone angrily or to speak angrily to somebody because you do not approve of something they have done. [KL], who saw the conversation both from a distance and close up, is adamant that I did not exact any anger upon [EF]; also that there was no finger pointing by me, as alleged by [EF]. In fact, I presented myself in a composed and measured manner in my annoyance and criticism of [their] apparently discourteous treatment of my guest.

Paragraph 8, in fairness, ought to have stated that,

Both Lord Pendry and [EF] told me that a doorkeeper, [KL], witnessed some of their encounter. I interviewed [KL] who undermined some key aspects of [EF]’s account, particularly that [KL] was absolutely certain that Lord Pendry did not grab [EF]’s radio, as [EF] has alleged; also that [KL] was certain that Lord Pendry was not in any way angry or finger pointing but, on the contrary, presented as “calm”. [KL] stated that whilst [they were] speaking with Lord Pendry, His Lordship reached out an arm and lightly touched [EF]’s radio. Lord Pendry has stated in interview that he does not recall any touch of [EF]’s radio; also that His Lordship had no idea that [EF] had a radio at all. [EF]’s credibility is therefore significantly undermined by the evidence of [KL]. In light of the above, a single light touch of [EF]’s radio whilst in conversation with [KL] is more likely than not to have been accidental on Lord Pendry’s part. [KL] mentioning this light touch in no way corroborates [EF]’s assertion that Lord Pendry “grabbed” [their] radio for a few seconds because [KL] has stated that there was definitely no grabbing of the radio.

Paragraph 10

Mr Khan failed to factor into his reasons in his report or provide a copy of the letter of [MN], in breach of his duty to accord with principles of fairness.

He sought to rely on one selective quote of her letter out of context. Mr Khan wrongly refuses to factor into the evidence the account of [GH] obtained by my lawyers and failed to make contact with [MN] to ask her what she meant when she said she was sorry that [EF] took any offence but that she understood why I remonstrated with [EF] because her son [GH] “was made to feel very uncomfortable by a member of your security staff. [My son] was surprised by [EF]’s reaction when he asked for directions to the bathroom as he had not been told that a Peer needed to accompany him. Lord Pendry was upset at my son’s obvious embarrassment and remonstrated with the member of staff and unfortunately has caused offence. My son and I are sorry [EF] has been upset but I do understand why [Lord Pendry] was so indignant.”

Paragraph 11

Mr Khan here makes a finding that he states is “on consideration of all the evidence”. This is patently wrong. All the evidence must include quotes of all of the evidence from [MN], who wrote to the Clerk of the Parliaments as to how her son felt shaken up by [EF]; also that her son approached [EF] rather than [EF] having approached him: further undermining [EF]’s credibility. Mr Khan had read the letter of [MN] and selectively quoted only one part out of context without the rest. All the evidence should also include the recollection of [GH], who also states that [EF]’s treatment of him was “over the top” and that it was in fact [EF] who was “cross” and becoming angry with [GH] that day.

The finding of bullying against me is flawed as it does not factor in all relevant evidence, including the full letter of [MN], the recollection of [GH] and all the evidence of [KL] the doorkeeper; it also wrongly suggests that [KL] “was able to corroborate some key aspects of [EF]’s account” when in fact [KL] undermines the key aspects, as described in my comments on paragraph 8 above. When properly balanced, it is more likely than not that my conversation with [EF] was composed, albeit I was annoyed but did not allow myself to take out my annoyance on [EF] through any exhibition of anger. I conveyed what [GH] had told me in

the presence of [MN]: that [GH] was – in the words of [MN] “made to feel very uncomfortable” by [EF].

Paragraph 57

[MN] has communicated to my lawyers that which I summarised on page 7 of my letter to Mr Akbar Khan dated 24th February 2022 (enclosed) : i.e. the way that Mr Khan has quoted her is wrong. This undermines Mr Khan’s findings.

Mr Khan writes that the letter of [MN] “confirmed that [GH] had been uncomfortable about his interaction with [EF]. [MN] reported that Lord Pendry was “upset by [GH’s] obvious embarrassment and remonstrated with the member of staff” which “caused offence”.

What [MN] in fact wrote was that “Lord Pendry was upset at my son’s obvious embarrassment and remonstrated with the member of staff and unfortunately has caused offence. My son and I are sorry [EF] has been upset but I do understand why [Lord Pendry] was so indignant. Her full letter (which must be part of the evidence balancing exercise because evidence cannot fairly be selectively quoted and withheld from an accused) is as follows:

[redacted personal data: the London address of [MN]]

12th July 2021

Dear Mr. Burton,

My son and I visited the House of Lords to meet with, Lord Pendry for tea on Tuesday [6th] of July.

[Lord Pendry] was keen to give [GH] a memorable experience, particularly as he has just recovered from a surprisingly bad bout of Covid-19.

My son does wonder whether the illness has left him overly sensitive as he was made to feel very uncomfortable by a member of your security staff. [My son] was surprised by [EF’s] reaction when he asked for directions to the bathroom as he had not been told that a Peer needed to accompany him. Lord Pendry was upset at my son’s obvious embarrassment and remonstrated with the member of staff and unfortunately has caused offence. My son and I are sorry [EF] has been upset but I do understand why my Uncle was so indignant. We were hoping for a special day.

Although I appreciate that security is of the utmost importance in these difficult days I would urge your staff to remember that for young people the whole experience of visiting the Houses of Parliament has a great deal of resonance and is formative.

My son is at [redacted personal data] studying History and Politics. He was polite and smartly dressed and merely asked for directions. There is no doubt in my mind that my son would have not felt so awkward if a little bit of ‘public facing’ charm of the old days had been deployed. In my experience the Houses of Parliament staff were famous for it.

The whole episode has escalated and I would humbly urge some understanding on both sides and perhaps it could be seen as a learning experience for everyone.

Yours sincerely,

[MN]

Paragraph 57, in fairness, ought to be corrected to say the following:

The letter confirmed that [GH] had been “made to feel very uncomfortable” by [EF]; that [GH] was

“surprised by [EF’s] reaction when he asked for directions to the bathroom... Lord Pendry was upset at [GH’s] obvious embarrassment and remonstrated with the member of staff and unfortunately has caused offence. My son and I are sorry [EF] has been upset but I do understand why [Lord Pendry] was so indignant. We were hoping for a special day.”

Paragraphs 58 and 59

Mr Khan fails to mention in his report that I confirmed to him by letter of 2nd March 2022 the following points about the evidence/submission of [GH] who reported to me and his mother [MN] that he was made to feel very uncomfortable by [EF]:

I confirm that [GH] consented to his best recollection account being passed to you. You have his evidence and in fairness ought to factor that into your findings, in the same way that you have included [OP]’s points.

“I did not “berate” any House staff. I have reflected on the point you raise and as you know, there have been no other complaints upheld at this preliminary or any other level prior to your proposed conclusion which is in error both in fact and procedure, as set out in my last letter. I continue to await disclosure of primary material which is likely to assist my position and undermine any proposed conclusion of bullying, which you continue—unfairly—to withhold from me.

I have one final request of you because [MN] has supplied a copy of her letter to me and it represents relevant evidence from my guest on the day, please quote the letter in its entirety in your final report and/or append a copy to it. I enclose a copy to assist. I made it clear that it is not right to trouble her son at this formative stage of his university education any further. I have had his best recollection obtained and sent to you, as it has been.

As an alternative of having [GH] undertake this formal challenge of being interviewed by you, which his mother would not allow as she had genuine concerns that it would harm his mental health, I gave my permission for a conversation with my lawyers who obtained his account, in the same way that witness statements are obtained. There is no property in a witness. The discussion took place with both [GH] and his mother and contents given to me and I accept what my lawyers have passed on to me. In any event, [MN] has conveyed a fair summary in her letter.”

Instead of referring to “unavailable evidence”, Mr Khan here should have quoted in full the best recollection account / submission from [GH], which is as follows:

“I asked waitresses where the toilet was then walked in that direction. I asked a policeman for directions of where the loo was then he asked a guard to come over. The guard asked me what I was doing and [they were] quite cross that I was not with an escort. I had no idea it was necessary to be escorted to the toilet. [They] seemed quite cross and said I needed to have someone with me then walked me back to where Lord Pendry was sitting, where we were drinking tea. The security guard seemed quite annoyed that I was not with an escort. When

I had asked the waitress staff for directions to the loo they had not told me that I needed to be escorted. It felt over the top and in an unfriendly manner. I was taken aback. I was with [Lord Pendry] when he initially approached the security guard about this then I moved away. I did not see any physical element to their conversation.”

This account confirms that [GH] had asked the waitresses to assist him find the toilet then he asked the security staff. It led to my interview with the waitress staff, head of catering and Stephen Perkins, referred to in my letter to Mr Khan dated 24th February 2022 page 8. The waitress staff named [redacted] corroborates [GH]’s account but as Mr Khan has flatly refused to factor in [GH]’s account into his report, he leaves the incorrect impression that I flagrantly sent my guest around unescorted. In fact, my guest asked assistance from the catering staff when he needed the toilet.

Mr Khan also presents an impression in error that I may have taken in 6 guests on the day in question. This is wrong, supported by my diary entry. I took in 2 guests which I thought was permissible and was permitted by the doorkeepers that day. This case is not about taking in 1 or 2 guests but about whether I bullied [EF], following being told that [they] had been “over the top” with a young guest and that [they] had made my guest feel very uncomfortable.

I repeat the submissions that I made to Mr Khan in my 24th February 2022 which appear to have been discarded by him. I pray in aid that The Lords and Ladies of the Conduct Committee fairly weigh up all the evidence obtained by both Mr Khan, my lawyers and my staff and I. I repeat and elaborate on the concluding submissions as follows:

What is “bullying”?

Both [EF] and I have had the honour to serve in HM armed forces. The giving and receiving of orders and, where necessary and warranted, reprimands, is second nature. Poor performance or disrespect needs to be addressed. I was doing no more and no less than pointing out to [EF] that [their] conduct in making a young and impressionable guest feel uncomfortable by becoming cross with him whilst pacing him back to my tea table was unacceptable. [MN] corroborates much the same thing in her letter. Security staff ought to be polite, firm but should not become angry or cross with guests, despite the guest being a young university student in his early 20’s.

Bullying is a concept which was made quite clear to me at the training that I attended, and is set out (the ACAS definition) in Appendix B to the Codes of Conduct.

What I was doing was not bullying. Even if [EF themselves] perceived it as bullying—as [MN] says in her letter that [they] may have done, by virtue of [EF] claiming [they were] caused offence—that does not amount to the “offence” of bullying set out in the Code unless it was objectively reasonable for [them] to have perceived such conduct as bullying. It was objectively reasonable for [EF] to perceive that I was unhappy with what I was told of [them] by [GH], and that I was criticising the angry way that [they] had conducted [themselves]. [They] could equally reasonably take it as a reprimand, but that is not bullying.

None of the other characteristics of “bullying” in the definition (behaviour which is offensive, intimidating, malicious or insulting) were present. There is no suggestion of me raising my voice. This was a quiet area. [KL] the doorkeeper is

adamant that I was calm/composed at all times. [They] witnessed my conversation with [EF] both from a distance and as [they] approached us. I was not seeking to humiliate or make an example of [EF] and would never seek to humiliate anyone. I am a practising Roman Catholic which to me means I use my best endeavours to be kind to others at all times.

As I described in my interview with Mr Khan, I did not feel calm inside because I was annoyed. However, I did not allow my internal annoyance at what [GH] described to me as over the top anger on the part of [EF] to become anger on my part. As I am duty bound to be courteous and polite, I remained composed in my short conversation with [EF] that lasted less than 60 seconds, most of which was seen by [KL] from afar and on approaching us.

As the definition of bullying in Appendix B makes clear, it is only the placing of unreasonable expectations on someone's job performance that amounts to bullying. What I was seeking to do was a perfectly reasonable response to what [EF] had apparently done to a guest; i.e. becoming "cross" with him and making him feel uncomfortable (as reported in the words of [GH] and [MN] respectively).

There was no abuse or misuse of power on my part. As a working peer I am a public servant like anyone else who works in Westminster. [EF]'s job is to keep us, and the public, safe. This is not a question of hierarchy, and I have no formal power over [them]. I was 87 years old and not in the best of health. I do not know [EF]'s age, but [they are] considerably younger than me, perhaps in [their] 40s, and gave the impression of being physically fit. We had (to my knowledge) never encountered each other before. There was no "history" or malice.

Conclusion

In my over 50 years of public service, I have always upheld the highest standards and endeavoured to stand up to those mistreating others. This is precisely what motivated my challenge of [EF] on 6 July, 2021.

The behaviour code describes bullying as "offensive, intimidating, malicious or insulting behaviour involving an abuse or misuse of power than can make a person feel vulnerable, upset undermined, humiliated, denigrated or threatened."

The description of an individual feeling "vulnerable, upset, undermined, humiliated, denigrated or threatened" was how [GH] told me he felt following his interaction with [EF]. [GH] was polite, well-dressed and behaved courteously towards everyone he came into contact with on what was intended to be a memorable day. Despite this, his short encounter with [EF] had left him shaking, visibly upset and, in his own words, as though he was frogmarched back to his mother and me. Upon seeing the effect that [EF]'s conduct had had on him, I felt I was morally obliged to confront this discourteous behaviour and inform [EF] that it was not appropriate to treat guests in the House of Lords in that manner.

I am the one that sought to stand up to what I was told was bullying behaviour, yet I now find myself being accused of bullying.

After witnessing the state that [GH] was in, we calmly finished our tea before I confronted [EF] on [their] behaviour. I did not approach [them] in an angry manner, but in a composed way after having collected my thoughts for a number of minutes alongside [GH] and [MN]. The doorkeeper confirms I presented as "calm".

There was no intention to bully on my part, no intention to touch a radio and no intention to breach the rules of the Code of Conduct.

I respectfully submit that the right finding to make on all the evidence that it is more probable than not that I did not bully [EF]; I did not point my finger at [them] or grab [their] radio as [they] alleged and I remained composed when challenging [them] as to alleged maltreatment of my guest. [They] apologised and I accepted that, hence neither I nor [MN] pursued complaints against [them]. [They] then complained 7 weeks later with [their] account that is contradicted by the evidence of others. [Their] evidence is self-serving by alleging that it was [they] who approached [GH]; that I grabbed [their] radio and that I angrily approached [them]. Other witnesses have since confirmed that it was [GH] who approached [them] simply to asked for directions; it was [EF] who was angry with [GH] that day; that I did not grab [their] radio as [they] had alleged and that I was composed in my polite conversation with [them]. [EF]'s stated recollection of bullying is not correct and is undermined by the details of the evidence of others present that day.

I was Parliamentary Under-Secretary of State for Northern Ireland in the late 1970's when security was paramount to Parliamentarians. That need for high level security was heightened again when terrorists attacked our Parliament in 2017. I have always felt indebted and ever grateful for the protection of our great security teams in Parliament. It is unconscionable to think that I—a Parliamentarian of 50 years' service—would suddenly bully a member of a team who I owe my safety and gratitude to on a daily basis. I did not bully [EF]. I raised a complaint made to me by a young [man] in the presence of his mother. I maintained my composure whilst doing so when suggesting what [GH] had told me: that for some reason [EF] became angry with him that day and sternly walked him back to us. [EF] apologised and both [GH and MN] and I considered that acceptable at the time.

I pray in aid all the above in my appeal to The Honourable Conduct Committee.

LORD PENDRY OF STALYBRIDGE

22 March 2022