



# HOUSE OF COMMONS

Lord Evans of Weardale  
Chair, Committee on Standards in Public Life  
Room GC.07  
1 Horse Guards Road  
London  
SW1A 2HQ

26 November 2018

Dear Lord Evans,

Thank you for your letter of 23 November following my letter of 26 October to your predecessor. May I congratulate you on your appointment.

As you rightly observe, the governance of the House of Commons is not simple. The House of Commons Commission, chaired by the Speaker, is a statutory body primarily responsible for the finances of the House administration, and for acting as the statutory employer of the staff of the House. It has no authority over Members conduct. Nor does it have any powers to ensure that a motion is put before the House.

Acting in its employer role, it has already met the first of Dame Laura's three key recommendations, in that the Respect and Valuing Others policies have been terminated, replaced by the new Independent Complaints and Grievance Scheme which was agreed by the House of Commons in July 2018.

We have today published a consultation on how to give effect to her second key recommendation, on historic complaints. I enclose a hard copy. Soon after the consultation ends on 17 December, I plan to produce a report setting out in technical terms how the House could best give effect to the recommendation, based on responses to the consultation. The House agreed the Scheme in July 2018 and it is only the House which can amend it. It therefore falls to the Leader of the House to find Chamber time for a motion to this effect.

You express your Committee's disappointment that I did not in my letter of 26 October specify clear time frames other than to say that I expected the House to progress the recommendations as quickly as possible, and you also note the lack of clarity as to where accountability lies. I have taken the initiative in launching this

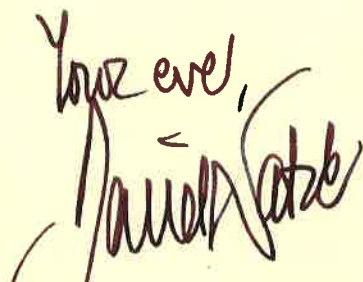
consultation and have therefore in some respects made myself accountable for it. In relation to bringing the results of this consultation to the floor of the House, accountability lies with Ministers. I can only repeat my expectation and hope that the House progresses the recommendation as quickly as possible.

A consensus has not as yet emerged on how best to take forward the other key proposal, that *“steps should be taken, in consultation with the Parliamentary Commissioner for Standards and others, to consider the most effective way to ensure that the process for determining complaints of bullying, harassment or sexual harassment brought by House staff against Members of Parliament will be an entirely independent process, in which Members of Parliament will play no part”*. The Commission is due to have a meeting to discuss this issue with the Chair of the Committee of Standards and the Parliamentary Commissioner very soon; indeed it was scheduled for today but has had to be postponed because of the Prime Minister’s Brexit statement. I remain hopeful that a process for establishing the way ahead will be agreed soon. You will of course be as conscious as I am that the recent decision in your House on the case of Lord Lester of Herne Hill has had an impact on the credibility of determination by parliamentarians of complaints against their colleagues.

Responsibility for the existing Standards system, and for changing it, rests with the House itself. It is independent of Ministers and independent of the House administration. The Commission has an interest in it, as the employer of potential complainants and indeed respondents, but no direct responsibility.

I hope this is helpful. If the Committee seeks more information I would be happy to arrange a meeting.

I would be grateful for your confirmation that this letter will be appended to your letter of 23 November on the Committee’s website. I am copying this letter to the Leader of the House.

Yours ever,  
  
Sir David Natzler KCB  
Clerk of the House

## Historical cases consultation

### Cox Report

1. On 15 October the Cox report into the Bullying and Harassment of House of Commons staff was published. On page 6 of the report Dame Laura listed three "*fundamental recommendations, which merit urgent consideration without waiting for the six-month review of the new Independent Complaints and Grievance Scheme, which is due to take place in January 2019*". This consultation covers the second of those recommendations, that "*the new Independent Complaints and Grievance Scheme should be amended, so as to ensure that those House employees with complaints involving historical allegations can access the new Scheme*".

### Commission and House response

2. On 24 October the House of Commons Commission met and recommended the amendment of the Scheme as proposed by Dame Laura, as well as indicating that changes should apply as much to Members staff as to House staff. On 29 October at a further meeting it agreed to work with others on the necessary steps to identify and implement the changes proposed in advance of the six-month review of the ICGS. The House debated the Cox report on Monday 5 November.

### Amendment of Scheme

3. The Scheme was agreed on 19 July 2018 by the House of Commons and can therefore only be amended with the agreement of the House. In order to enable the House to give effect to the recommendation as soon as practicable, at the request of the various bodies and individuals with a direct role or interest in the operation of the ICGS, I am now undertaking a rapid consultation with a view to presenting a suggested schedule of recommended amendments to the Scheme, which can then be put to the House for its approval.

### Scope of amendment

4. The changes being consulted on will be expected to apply to all those in the Commons part of the parliamentary community, including Members staff and constituency staff. The House of Lords Standards Committee is currently pursuing the issue of historic complaints on a separate track.

## Consultation period and report

5. The consultation will last three weeks and will therefore close on 17 December. The report on the consultation will be drawn up with legal advice and in close consultation with the Parliamentary Commissioner for Standards. It will be published, as will any submissions save where confidentiality has been sought.

## The current situation

6. The Working Group and Steering Group considered the issue of how to treat historic complaints at some length. In the end, the position outlined in the Delivery Report endorsed by the House in the resolution of 19 July 2018 was as follows:
  - Irrespective of the age of the incident, advice, support and signposting to specialist services would be available from the Bullying and Harassment and Sexual Misconduct support services.
  - Incidents which occurred after the start of the 2017 Parliament, 13 June 2017, can be investigated, and sanctioned if proven, under the Independent Complaints and Grievance Scheme.
  - Prior to 13 June 2017, incidents can be reported to the Bullying & Harassment or Sexual Misconduct helplines and the reporter will be informed of the process available at the time the incident took place. They would need to use that process, not the ICGS.
  - Those complaining about an incident which occurred after the new Scheme was introduced may be able to include previous incidents of inappropriate behaviour in their complaint where such behaviour amounts to a 'continuing act'. In addition, the investigators may also be able to consider reports of allegations prior to the Scheme as evidence when considering complaints.

7. The Bullying and Harassment Policy gives effect to the decisions above as follows:

"5.3. Complaints can be investigated under this policy if they post-date the start of the 2017 Parliament. This includes continuing acts where at least one

act complained about falls within that timeframe. People who have concerns about behaviour prior to this may be able to raise a complaint under a different pre-existing policy or as a criminal case and can call the Independent Reporting Helpline for advice about sources of support that they can access. A record will also be made by the Independent Reporting Helpline.”

The Sexual Misconduct Policy reflects the position on historic cases thus:

“15.2 All members of the Parliamentary Community as set out in section 9 (Scope) of the Sexual Misconduct Policy can access the ISMA Service for advice and support and signposting as outlined in Pathway 1. However, under Pathway 2 & 3, retrospective investigations using this Sexual Misconduct Policy and Procedure are limited to the start date of the 2017 Parliament. Previous acts of sexual misconduct prior to the start date of the 2017 Parliament can be included where such acts amount to a continuing act.

15.3 People who have concerns about behaviour prior to the start date of the 2017 Parliament may be able to raise a complaint under a different pre-existing policy or as a criminal case and can call the ISMA Service for advice about sources of support that they can access. A record will also be made by the ISMA Service.”

Cox report proposals

8. The Cox report proposes that:

- There should be no cut-off date imposed for access to the new Scheme (para 327)
- Whether any such case can be formally pursued should be decided “*before a full investigation takes place, having regard to the wishes of the complainant and to the need for fairness to both parties*” (para 330) and after the allegation has been put to the alleged perpetrator (para 336)
- The Case Manager/Investigator will then undertake a “*preliminary assessment*” taking into account the age of the events complained about, the seriousness of the allegations, the extent to which evidence is still available on both sides and the complainant’s own wishes (para 337).

9. Cox also acknowledges that there may be “*a cohort of individuals whose complaints about serious bullying or harassment in the past cannot now*

*be fairly investigated due to the failings of the past...*" (para 342) and that *"the older the incidents are, the less likely it is that these individuals will be able to seek redress"* (para 343). The report does not anticipate that there will be many in the cohort but states that *"some, at least, are extremely serious cases."* (para 346) and recommends that *"the House authorities should devise and implement an internal, stand-alone participatory reparation process to be open and accessible for a fixed period of time"* (para 348).

## QUESTIONS

The following are the specific questions to which your responses are invited

- A. Should all former members of the parliamentary community be able to access the ICGS?
- B. Should it be possible to complain about (a) an individual who has left the parliamentary community, or (b) changed status within it e.g. elevation to the House of Lords or transfer of employment from one House to the other?
- C. Should the decision as to whether to progress a non-recent [historic] case be left to an assessment to be made by the individual case manager, as indicated by Cox, or should there be a separate structure for assessing and deciding on progressing such complaints?
- D. Should there be a defined period of time - a "window of opportunity" - within which pre-June 2017 complaints can be raised and determined? If so, what period of time?
- E. Should there in due course be any time limits on cases?
- F. Against what behavioural expectations should a non-recent [historic] case be judged? Should it depend on the existence or otherwise of a previous behaviour regime covering the complainant or the respondent?
- G. What sanctions should be available for such cases? Should all current sanctions be available, or only those which would have been available at the time?
- H. How should Dame Laura's proposal for an "internal, stand-alone participatory reparation process" be implemented? And for how long should the process be available?

You are also invited to draw attention to any other points you consider need consideration in seeking to give effect to Dame Laura's recommendation on access for historic cases.

Please send your responses to [communications@parliament.uk](mailto:communications@parliament.uk) or by post to

**Sir David Natzler KCB**  
**Clerk of the House of Commons**