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Assembly

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Topical issues in other legislatures

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1 Introduction

This briefing paper has been prepared following a request from the Committee on Standards and Privileges. It discusses issues in other legislatures in relation to standards that have arisen between January 2017 and January 2020.

The structure of the paper is as follows:

Section 2 addresses two issues together as there is overlap between them:

- Inappropriate behaviour including bullying, harassment and sexual harassment; and
- Reviews of Codes of Conduct.

Section 3 outlines developments on lay members on standards committees.

Section 4 examines how other legislatures have dealt with ending the requirement for dual registration of donations with the relevant legislature and the Electoral Commission.

Section 5 provides a brief update on All-Party Groups/Cross-Party Groups.

Section 6 outlines the rules on the publication of details of admissible complaints to standards commissioners.

Section 7 highlights recent developments in relation to training for members on standards/ethics/compliance issues.

Section 8 comments briefly on the matter of sanctions.

The intention of this paper is to provide a broad overview of developments in the other legislatures during the period in which the Northern Ireland Assembly did not meet. Further research would be required to explore the topics in detail. In particular, steps being taken to address the matter of inappropriate behaviour are still being implemented.

2 Inappropriate behaviour, bullying and sexual harassment and reviews of codes of conduct

The period from January 2017 to January 2020 witnessed significant developments in other legislatures in relation to efforts to address claims of bullying and harassment, including sexual harassment. Attempts to introduce measures to address this conduct have been a significant part of the workload of the respective standards committees in the House of Commons, Scottish Parliament and National Assembly for Wales.

Considerable work has been undertaken by these committees to contribute to and assist in the implementation of measures to tackle inappropriate behaviour and conduct. Some of this has resulted in changes, or proposed changes, to codes of conduct, but more broadly it has reflected a need to change the culture within those institutions. This has included new guidance on, for example, dignity and respect and the roll-out of support services for those working within legislatures who wish to raise complaints.

2.1 House of Commons

The House of Commons received significant negative attention due to allegations of bullying and harassment by both staff and MPs. The response of the House of Commons Commission has consisted of three main aspects:

- A cross-party Working Group to take forward an Independent Complaints and Grievance Policy (ICGS);
- An inquiry into allegations of bullying against staff employed by the House of Commons, headed by Dame Laura Cox; and
- An inquiry into allegations of bullying and harassment against staff employed by MPs, headed by Gemma White QC.

The outworkings of these inquiries has not yet been completed, resulting in a complex and fast-moving situation. Each of the approaches is discussed below.

The Working Group on an Independent Complaints and Grievance Scheme

Press reports appeared in November 2017 detailing accounts of bullying and sexual harassment in Westminster. In response, the House of Commons established a cross-party Working Group on an Independent Complaints and Grievance Policy (ICGP). The Working Group provided two reports: in February 2018 it recommended the development of a Parliament-wide behaviour code and an independent complaints and grievance scheme to deal with allegations of sexual harassment, bullying and harassment.

A subsequent Delivery Report published in July 2018 “proposed a Behaviour Code; procedures for reporting and investigating allegations of bullying and harassment; procedures for reporting and investigating allegations of sexual harassment; and a system of training to support the Behaviour Code”.¹

In that same month, the Behaviour Code was endorsed by the House of Commons along with the policies and procedures relating to bullying and harassment and sexual harassment as set out in the ICGP report². A requirement to observe the principles set out in the Behaviour Code was incorporated into the Code of Conduct and an updated version of the Code was published in August 2018.

The ICGS as a whole consists of the Behaviour Code, the Bullying and Harassment Policy and the Sexual Harassment Policy.³

Standing Order 150 was also amended “to give the Parliamentary Commissioner for Standards the duty to consider cases arising from the Independent Complaints and Grievance Scheme and the power to rectify such cases”.

An independent six month review of the operation of the ICGS was commissioned in January 2019 with the findings published in June of that year. It recognised the positive aspects of the Scheme, such as the Behaviour Code, but also noted that the procedural complexity of the scheme had been underestimated which had led to too little resources being applied to its implementation.

Dame Laura Cox report

Following a report on BBC’s Newsnight in March 2018 about the conduct of MPs towards House of Commons staff, the “House of Commons Commission agreed to establish an independent inquiry into Bullying of Staff in the House of Commons”⁴. The subsequent report by Dame Laura Cox was published in October 2018 and made three fundamental recommendations:

¹ House of Commons Library Briefing Paper, *Independent Complaints and Grievance Scheme*, 16 July 2019

² As above

³ Conduct in Parliament webpage: <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliaments-behaviour-code/>

⁴ As above

- Existing policies (*Valuing Others Policy* and the *Revised Respect Policy*) should be abandoned as soon as possible and staff wishing to report inappropriate behaviour should no longer have to use them;
- 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; and
- 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.⁵

The House of Commons Commission agreed these three recommendations and stated that work would commence on taking them forward. The *Valuing Others Policy* and *Revised Respect Policy* were abandoned and work was commenced to ensure that the ICGS was amended to allow historical allegations:

On 17 July 2019, the House of Commons voted to open the ICGS to those who have complaints pre-dating June 2017 or are no longer part of the parliamentary community.

As of 21 October 2019, the ICGS is open to any member of the parliamentary community, present or former, who wishes to raise concerns, seek advice or make a complaint about bullying, harassment or sexual harassment, that occurred at any point.⁶

Progress had been slower on the third recommendation, that of an entirely independent complaints process in which MPs would play no part. In June 2019 a House of Commons news item announced that an internal team would lead on producing options for the Commission.⁷ Then on 10 February it was announced that the House of Commons Commission would be consulting on five possible options to end the involvement of MPs in the ICGS sanctions process. Its preferred option is to appoint an Independent Expert Panel (Parliamentary Tribunal) which would consider cases where more serious sanctions were considered appropriate and also hear appeals by either party against the Commissioner's conclusions.⁸

⁵ Dame Laura Cox, *The Bullying and Harassment of House of Commons Staff – Independent Inquiry Report*, October 2018

⁶ Non-recent cases in ICGS webpage: <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliaments-behaviour-code/non-recent-cases/>

⁷ House of Commons Library Briefing Paper, *Independent Complaints and Grievance Scheme*, 16 July 2019

⁸ House of Commons Commission webpage, *Commission decisions*, 10 February 2020: <https://www.parliament.uk/business/committees/committees-a-z/other-committees/house-of-commons-commission/news-parliament-2017/commission-decisions-10-february-202021/>

Gemma White QC report

Gemma White QC was appointed in November 2018 to examine allegations of bullying and harassment that were outside the scope of the Dame Laura Cox inquiry, that being members' parliamentary staff.

The report found that:

- Some Members' staff were subject to an unacceptable risk of bullying and harassment, including sexual harassment;
- Former Members' staff were unable to complain under the ICGS – this limitation should be removed;
- There must be a fundamental shift away from regarding MPs as 650 small businesses and they should be required to follow employment practices such as those in other public sector workplaces;
- This shift should be supported by a properly resourced department within the House of Commons.⁹

Although recognising that the Commons' Commission does not employ the staff of MPs, the Commission nevertheless welcomed the report and committed to “consulting unions, IPSA [the Independent Parliamentary Standards Authority] and MPs immediately to see what the implementation issues in the creation of a new HR department might be to provide better support to MPs and to staff”¹⁰. On 10 February the Commission announced it had “decided to establish a Members' Services Team to implement the Gemma White QC recommendation of a HR service for MPs and their staff. Work has already begun to put these new services in place”.¹¹

Committee on Standards

The Committee on Standards has played an important role in the attempts to address the issues that have emerged since November 2017.

In July 2018 the Committee published its report *Independent Complaints and Grievance Policy: Implementation*. It recommended that “the Commissioner should be involved in oversight of all investigations into Members' conduct under the ICGP, as well as being involved in drawing up the protocols that will govern how those

⁹ The report, *Bullying and Harassment of MPs' Parliamentary Staff*, is available at: <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliaments-behaviour-code/>

¹⁰ House of Commons Commission webpage, *Statement on Gemma White QC's report*, 16 July 2019: <https://www.parliament.uk/business/committees/committees-a-z/other-committees/house-of-commons-commission/news-parliament-2017/statement-on-gemma-white-report-16-07-2019/>

¹¹ House of Commons Commission webpage, *Commission update 10 February*, 10 February 2020: <https://www.parliament.uk/business/committees/committees-a-z/other-committees/house-of-commons-commission/news-parliament-2017/consultation-proposal-independent-complaints-process/>

investigations are carried out".¹² That report also recommended incorporating the new Behaviour Code into the Code of Conduct.

In December 2018 the Committee published *Implications of the Dame Laura Cox report for the House's standards system: Initial proposals*. The report recommended giving lay members a formal vote and enhancing the powers of the Parliamentary Standards Commissioner by removing the requirement that she consult with the Standards Committee before commencing an inquiry into events that occurred more than seven years earlier. This was endorsed by the House in January 2019, as was the abolition of the requirement that complaints be submitted in hard copy, signed and including the name of the name and postal address of the individual concerned.

Review of the Code of Conduct

The Parliamentary Commissioner for Standards is asked to review the Code of Conduct and the Guide to the Rules once in each Parliament. The last review was completed in April 2017 and passed to the Committee for Standards for its consideration. This was then delayed by the General Election. The new committee formed after the election began its consideration of the Commissioner's recommendations in October 2017 but the following month the first media reports of bullying, harassment and sexual harassment broke. It is likely that the new Committee on Standards will return to this matter.

Support services

Two new helplines were established as part of the ICGS – the Independent Bullying and Harassment Reporting Helpline and the Independent Sexual Misconduct Advisory Service.

In addition, there has been the appointment of a Director of Cultural Transformation, the development of new organisational values in the Commons, the removal of hierarchical rules and working practices, and training for all staff on recognising misconduct and being confident in tackling it.¹³

Timeline

There is a lot of information to process regarding developments in the House of Commons. The following timeline sets out the key events in chronological order, but is not meant to be exhaustive:

¹² Committee on Standards, *Independent Complaints and Grievance Policy: Implementation*, July 2018: <https://publications.parliament.uk/pa/cm201719/cmselect/cmstandards/1396/139602.htm>

¹³ House of Commons webpage, *Conduct in Parliament*: <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliaments-behaviour-code/>

Timeline of events: House of Commons allegations

November 2017: press reports emerge of allegations of bullying, harassment and sexual harassment in the House of Commons
November 2017: Cross-Party Working Group on an Independent Complaints and Grievance Policy established
February 2018: Working Group's report on an Independent Complaints and Grievance Policy published
28 February 2018: House endorses Working Group's recommendations on the development of a Parliament-wide behaviour code and independent complaints and grievance scheme to respond to and manage complaints of (i) sexual harassment and (ii) bullying
March 2018: BBC Newsnight story airs – Commons appoints Dame Laura Cox to investigate claims of bullying against Commons' staff
July 2018: The House of Commons' approves the Committee on Standards' report on the ICGP (published on 13 July) and the ICGS Delivery Report (published on 17 July)
October 2018: the publication of the independent report by Dame Laura Cox QC on bullying and harassment of House of Commons staff
November 2018: the establishment of an independent inquiry headed by Gemma White QC into bullying and harassment of MPs' staff
December 2018: Committee on Standards published Implications of the Dame Laura Cox report for the House's standards system: Initial proposals. Report recommended giving lay members a formal vote and enhancing the powers of the Parliamentary Standards Commissioner.
January 2019: House agrees December 2018 report from Committee on Standards – full voting rights for lay members of the Committee on Standards and to strengthen the independent status of the Parliamentary Commissioner for Standards
May 2019: Committee on Standards launches inquiry into possible reforms to system of sanctions for breaches of the Code of Conduct
July 2019: Report by Gemma White QC published into bullying and harassment of MPs' staff
October 2019: ICGS is open to any member of the parliamentary community, present or former, who wishes to raise concerns, seek advice or make a complaint about bullying, harassment or sexual harassment, that occurred at any point.
February 2020: Consultation launched on proposals for independent complaints process under ICGS

2.2 Scottish Parliament

The Scottish Parliament was not immune to allegations similar to those at the House of Commons.

Responding to reports about sexual harassment and misconduct at the Parliament, in December 2017 the Standards, Procedures and Public Appointments Committee initiated an inquiry into sexual harassment and misconduct at the Scottish Parliament. It found that there were barriers to reporting misconduct, such as a lack of confidence in the Parliament's processes, along with fears about the impact it could have on a complainant's career.

Furthermore, an independent and confidential survey commissioned by the Scottish Parliament Corporate Body which ran from December 2017 to January 2018 (SCPB) found that from a total of 1,039 completed questionnaires:

A fifth (20%) of respondents had experienced such behaviours – 30% of women compared to 6% of men. Among those who had experienced sexual harassment, 45% said the perpetrator was an MSP. 40% said the perpetrator was a member of the Scottish Parliament staff and 20% said a member of MSP staff was responsible.¹⁴

In February 2018 a Joint Working Group was established comprising senior Parliament staff, representatives from each political party and an external expert. The Group's remit was:

to consider and agree any actions that need to be taken on a joint or individual basis between the Parliament and political parties in light of the survey on sexual harassment and sexist behaviour.¹⁵

The Group's report was published in December 2018 and was referred to the Standards, Procedures and Public Appointments Committee by the Scottish Parliamentary Corporate Body to take forward revisions to the Code of Conduct.

In December 2019 the SPPA Committee published its report *Code of Conduct for MSPs – proposed revisions to implement the recommendations contained in the Joint Working Group's Report on Sexual Harassment and Sexist Behaviour*. Some of the key revisions are briefly outlined below:

- **Excluded complaints:** revision to allow complaints about Members' treatment of parliamentary staff and other members' staff to be made directly to the Commissioner. Previously, a member of parliamentary staff had to approach Human Resources or, in the case of a complaint about the treatment of another member's staff by a member, that member's Business Manager;
- **Treatment of others**
 - **Members' own staff:** revision to include a requirement that MSPs treat "their own staff" with courtesy and respect;
 - **The standard of conduct for the treatment of others:** revision to include requirement that "Members must not behave in a manner

¹⁴ Standards, Procedures and Public Appointments Committee, *Sexual harassment and inappropriate conduct*, June 2018: <https://digitalpublications.parliament.scot/Committees/Report/SPPA/2018/6/5/Sexual-harassment-and-inappropriate-conduct-1#Introduction>

¹⁵ Scottish Parliament, *Report of the Joint Working Group on Sexual Harassment*, December 2018: <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/111615.aspx>

towards these individuals that involves bullying, harassment (including sexual harassment) or any other inappropriate behaviour".¹⁶

These were agreed by the Parliament on 10 December 2019 and came into effect on 7 January 2020.

In addition, at its meeting on 7 November 2019, the Committee agreed to instruct a Committee Bill which would amend the Interests of Members of the Scottish Parliament Act 2006 to address historical misconduct. The Bill would seek to:

- remove an admissibility requirement that a complaint be made within one year; and
- to allow the Commissioner to investigate complaints made by Members' own staff in relation to sexual harassment which took place in the past.

Support services

There is a range of support available for people concerned about sexual harassment and sexist behaviour within the Parliament. An Independent Support Service provides:

- Access to specialist advisers via telephone and email. The service is independent of all employers, it is confidential, and contact can be anonymous;
- Information and advice on policy and processes to help [people] decide on the best course of action;
- An advocacy worker who can facilitate appropriate interventions, including face to face, written, or telephone interaction between [the complainant] and the person [they are] complaining about;
- Ongoing support throughout any complaint process if that is what [the complainant] decide to do; and
- Anonymised data on the number of incidents.¹⁷

A dedicated webpage on the Parliament's website contains links to Rape Crisis Scotland and the charity Stonewall, along with a downloadable poster, which can be viewed at Appendix 1.

2.3 National Assembly for Wales

Reports of inappropriate behaviour at the National Assembly for Wales led to a joint statement by the Presiding Officer, the Chair of the Standards of Conduct Committee and the leaders of the party groups at the National Assembly for Wales. The statement

¹⁶ Standards, Procedures and Public Appointments Committee, *Code of Conduct for MSPs – proposed revisions to implement the recommendations contained in the Joint Working Group's Report on Sexual Harassment and Sexist Behaviour*, December 2018: <https://digitalpublications.parliament.scot/Committees/Report/SPPA/2019/12/3/Code-of-Conduct-for-MSPs---proposed-revisions-to-implement-the-recommendations-contained-in-the-Joint-Working-Group-s-Report-on-Sexual-Harassment-and-Sexist-Behaviour>

¹⁷ Scottish Parliament webpage: <https://www.parliament.scot/abouttheparliament/108343.aspx>

regretted instances of bullying and harassment on the part of Members and went on to say:

*As our first practical step, the Assembly Commission will work with the Standards of Conduct Committee to develop a Respect and Dignity Policy which will spell out that inappropriate behaviour has no place in this institution. A resolution will be put before the Assembly to incorporate the policy within the Code of Conduct for Assembly Members. The Standards of Conduct Committee will also review the sanctions available if the Code is breached.*¹⁸

The Standards of Conduct Committee was asked to hold an inquiry into “Creating the Right Culture: Ensuring the National Assembly is an exemplary place to work”.

The Committee’s subsequent report covered a range of areas including different types of harassment; training; managing a small office; support for the Standards Commissioner and rules governing the complaints procedure. In total, the report contained 21 recommendations. Commenting on the Code of Conduct, the committee observed:

*We also think that further improvements should be made to the clarity in the Code of Conduct. It appears to the Committee that the UK Parliamentary expenses scandal shaped the current Code– and that this financial emphasis does not necessarily help people understand the broader standards they can expect of AMs.*¹⁹

The report was debated in Plenary in November 2018 and ‘noted’.²⁰

As part of measures to tackle these issues, a survey carried out by the Assembly Commission between April and May 2018 asked Assembly Members, Assembly Members staff and Commission staff to answer questions about their experiences of inappropriate behaviour. Of the 128 responses, 32 people said they had experienced “inappropriate behaviour on multiple occasions either in their work as a member of staff for the commission or for an AM or assembly party group”²¹.

In May 2018 the Dignity and Respect Policy was launched. The new policy means that a range of groups could be held to account for their behaviour, including:

- Members elected to the National Assembly for Wales (Assembly Members);
- Staff employed by Assembly Members and political groups;

¹⁸ National Assembly for Wales webpage:

<https://www.assembly.wales/en/newhome/pages/newsitem.aspx?itemid=1788&assembly=5>

¹⁹ Standards of Conduct Committee, Creating the Right Culture, September 2019:

<http://senedd.assembly.wales/mglssueHistoryHome.aspx?lId=20401>

²⁰ National Assembly for Wales Plenary debate, 21 November 2018: <https://record.assembly.wales/Plenary/5366#A46760>

²¹ BBC News, *Assembly harassment survey pretty sobering, presiding officer says*, 19 June 2018:

<https://www.bbc.co.uk/news/uk-wales-politics-44533011>

- Contractors, including external advisers, and their staff and sub-contractors;
- Office-holders appointed by the Assembly (whether or not the office-holder receives payment); and
- Interns and those undertaking work experience (whether or not they receive payment).

Assembly staff were already accountable under a separate Dignity and Respect policy agreed with Trade Union Side.

Review of the Code of Conduct

As part of the outworking of its *Creating the Right Culture* report, the Standards of Conduct Committee agreed that it would “bring forward considered proposals by spring 2019 for amending the Code of Conduct”.²²

However, this review appears to be ongoing – at its meeting on 21 January 2020 “Members considered and agreed the scope of its review into the Code of Conduct for Assembly Members and associated matters and agreed a way forward”.²³

Support services

A webpage on the Assembly’s website offers advice on making a complaint under the dignity and respect policy, including links to support services.²⁴

Houses of the Oireachtas

Following the controversy at the House of Commons, the Houses of the Oireachtas followed with its own initiative:

*In March 2019, the Houses of the Oireachtas Commission launched the Dignity and Respect Statement of Principles and Policy following consultation with the political parties, groups and staff representatives. The Dignity and Respect Statement of Principles sets the standards of respect, dignity, safety and equality that apply to everyone in the Parliamentary Community and the purpose of the principles is to encourage a safe and harmonious workplace, free of bullying, harassment and sexual harassment.*²⁵

All political parties have formally adopted the Principles and Policy. Members and political staff were also strongly encouraged to attend information seminars on

²² Standards of Conduct Committee, *Creating the Right Culture*, September 2019:

<http://senedd.assembly.wales/mglssueHistoryHome.aspx?lId=20401>

²³ <http://senedd.assembly.wales/ieListDocuments.aspx?CId=451&MId=5901&Ver=4>

²⁴ National Assembly for Wales webpage: <https://www.assembly.wales/en/help/contact-the-assembly/complaint/Pages/Support-when-making-a-complaint.aspx>

²⁵ Houses of the Oireachtas Commission webpage, *Findings of online survey regarding bullying, harassment and sexual harassment in the parliamentary workplace*, 22 October 2019: <https://www.oireachtas.ie/en/press-centre/press-releases/20191022-houses-of-the-oireachtas-commission-publishes-findings-of-online-survey-regarding-bullying-harassment-and-sexual-harassment-in-the-parliamentary-workplace/>

maintaining a positive working environment, which were due to be held in early April 2019.

As part of this new approach, a survey of parliamentary staff was commissioned to gauge the levels of harassment, bullying and sexual harassment within the Houses of the Oireachtas.

Some of the key findings were:

- 15% of the 515 who responded (76 people) stated that they had experienced bullying in the parliamentary workplace, 8% (40 people) harassment and 3% (18 people) sexual harassment;
- In 62% (47 people) of the reported cases of bullying, the perpetrator of bullying is/was a staff member of the Houses of the Oireachtas, with 21% of perpetrators (16 people) being a member of one of the Houses; and
- For 28% of those who have reported experience of bullying in the past 12 months, the bullying has ceased. However, 72% claimed the bullying was likely to happen again in the future or is ongoing.²⁶

The Ceann Comhairle and Chairperson of the Houses of the Oireachtas Commission said:

The findings will enable the Houses of the Oireachtas to focus on certain areas for continued improvement. The Parliamentary Community must work together to implement the policy to address bullying and other inappropriate behaviours, which will not be tolerated in any form. We will continue to support, promote and resource the policy including the provision of mediation services, a dedicated Helpline, Workplace Support Programme and review their effectiveness on an ongoing basis. A further exercise will be carried out to assess the impact of the initiatives we have undertaken.²⁷

3 Lay members on standards committees

The House of Commons is the only legislature in the UK and Ireland to allow lay members to sit on its standards committee.

In 2009 the Committee on Standards in Public Life recommended that there should be lay representation on the then Standards and Privileges Committee. On 2 December 2010 the House agreed to the principle of lay members, and invited the Procedure Committee to bring forward proposals to implement it.

²⁶ Houses of the Oireachtas Commission webpage, Findings of online survey regarding bullying, harassment and sexual harassment in the parliamentary workplace, 22 October 2019

²⁷ As above

The Procedure Committee endorsed the principle of lay membership and recommended that initially two lay members be appointed. Subsequently, three lay members were initially appointed to the Committee in 2012 and this was changed to equal numbers (seven of each) in 2016.

However, lay members were not granted voting rights in line with their MP counterparts, although they could append an opinion to a committee report and publish reports reflecting on their work during the year.

Dame Laura Cox raised the issue of voting rights for lay members in her report. The Committee on Standards then addressed it in a subsequent report and noted that a majority of members of the Committee wished to see lay members given full voting rights. One area of potential concern was “that it might open the work of the committee to challenge in the courts on the grounds that it is not a properly constituted select committee entitled to the protection of Article IX of the Bill of Rights 1689”.²⁸ Essentially, the committee was highlighting a risk that the protection of parliamentary privilege could be compromised by giving lay members voting rights. Notwithstanding this, the committee recommended that full voting rights be granted and these were extended to lay members when the House approved the committee’s report on 7 January 2019.

In practice, this means that the lay members are a majority on the committee, since the Chair will only use his or her vote as a casting vote.

Appointment

The lay appointees were recruited through open recruitment. The posts were advertised widely and ten applicants, from a total of 255, were selected for final interview. The selection panel comprised: the Chair of the Committee on Standards; a lay member of the Committee on Standards; the external member of the House of Commons Commission and the Clerk of Committees in the Commons.²⁹ The nominated candidates were approved by a formal resolution of the House.³⁰

²⁸ Committee on Standards, *Implications of the Dame Laura Cox report for the House’s standards system: Initial proposals*, December 2018

²⁹ House of Commons Commission, *Lay Members of the Committee on Standards: Nomination of Candidates*, March 2017

³⁰ UK Parliament website, *Appointment of lay members*, accessed 5 February 2020

4 Dual registration

The Political Parties, Elections and Referendums Act 2000 (PPERA) introduced new financial reporting requirements for elected representatives. One of the new rules required regulated donees, which includes MLAs, to abide by controls on the acceptance and reporting of donations. This reporting regime came into effect for MLAs on 1st November 2007.

MLAs are also required to report financial interests to the Assembly and these are recorded and available to view on the Register of Interests. Therefore, an unintended consequence of PERA was to create a dual registration requirement for MLAs. This also applied to Members of the House of Commons, Scottish Parliament and National Assembly for Wales in relation to their respective Registers of Interests.

Section 59 of the Electoral Administration Act 2006 created a mechanism for ending dual reporting. It provides that if the Electoral Commission is satisfied that arrangements put in place by the relevant legislature allow it to fulfil its obligations under PERA, the appropriate Secretary of State (for Scotland, Wales or Northern Ireland) can commence the statutory exemptions from reporting directly to the Commission.

Impermissible donations and loans would, however, still have to be reported to the Electoral Commission. The Commission would retain the ability to use sanctions for breaches of the rules in relation to this area.

4.1 House of Commons

The House of Commons was the first legislature to end dual reporting. The then Standards and Privileges Committee considered the matter and in a January 2009 report it set out how a new streamlined system would work in practice, with accompanying proposed revisions to the Code of Conduct³¹. The House approved the committee's report in February 2009.

4.2 Scottish Parliament

The Interests of Members of the Scottish Parliament (Amendment) Act 2016 incorporated the donations and loans, credit facilities, etc. that were reportable to the Electoral Commission, under PERA, into the Parliament's members' interests regime. These changes allowed for the elimination of the dual reporting of certain financial interests to both the Electoral Commission and the Scottish Parliament.³²

³¹ Standards and Privileges Committee - Fourth Report Dual Reporting and Revised Guide to the Rules, January 2009

³² Standards, Procedures and Public Appointments Committee, *Code of Conduct revisions*, January 2016:

<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/96095.aspx>

4.3 National Assembly for Wales

The National Assembly for Wales is currently in the process of moving towards ending dual registration. The Standards Committee considered the issue throughout 2019, although meeting papers were restricted.³³ It aims to complete its work before the end of the current mandate.

4.4 Current situation in Northern Ireland

MLAs are subject to two separate regulatory frameworks and it would make sense that they would only have to report to the Assembly, and the Electoral Commission can then draw information from the Assembly and publish it separately. It would also mean that members of the public would no longer have to go to two separate sources to get a complete picture of Members' interests.

A key issue in attempting to align the reporting regimes of both the Assembly and Electoral Commission will be the need to ensure that the Assembly's register complies with the reporting requirements set out in PPERA. Central to this will be the need to ensure that:

- The Electoral Commission is able to obtain all necessary information from the Register of Members' Interests and the Clerk of Standards to comply with its PPERA obligations; and
- There is a robust approach to dealing with breaches of the rules³⁴.

4.5 Role of the Standards Commissioner

In any new single reporting regime consideration will need to be given to how breaches of the reporting requirements will be investigated. Currently, the Standards Commissioner investigates breaches of the Code of Conduct, while the Electoral Commission is responsible for investigating breaches of the PPERA reporting rules. It would appear logical that the Assembly's Standards Commissioner would be the single point of investigation once reporting regimes are aligned. This was the case in Scotland:

If dual reporting were to end, the Commissioner would take on sole responsibility for investigating breaches of those PPERA requirements (currently investigated by the Electoral Commission) that would be incorporated into the revised register of interests. This would broaden the Commissioner's remit and therefore simplify the process for the public, providing one place to direct complaints. In effect, the responsibility for considering whether rules on registering certain financial interests have been

³³ See for example: <http://senedd.assembly.wales/ieListDocuments.aspx?CId=451&MId=5837&Ver=4>

³⁴ Committee on Standards and Privileges (Northern Ireland Assembly), *Review of the Code of Conduct and Guide to the Rules Relating to the Conduct of Members*, June 2015

broken would transfer from one independent body, the Electoral Commission, to another, the Commissioner. As at present, any complaint that the Commissioner takes to full investigation would be reported to the SPPA Committee which must then publish a report on its findings and can, wherever necessary, recommend sanctions to be imposed on the MSP in question by the Parliament as a whole.³⁵

There will likely be a number of technical issues to be considered if the Committee took the view that dual reporting should end. Fortunately, much work has been undertaken by the House of Commons, Scottish Parliament and National Assembly for Wales and therefore the opportunity exists to draw on their experiences.

5 A review of the rules on All-Party Groups

The previous Committee on Standards and Privileges requested a paper (NIAR 362-2016) on the rules governing All-Party or Cross-Party groups in other UK legislatures. There does not appear to have been any significant developments since that paper was published.

This research looked at requirements for All-Party Groups or Cross-Party Groups to include representatives from more than one political designation or political grouping. The requirements in other legislatures are briefly outlined below:

- **House of Commons:** Each APG must have at least four Officers and “At least one officer must be from the government party or parties and at least one from the main opposition party;³⁶
- **National Assembly for Wales:** Part 3 of Section 2.4 of the Code of Conduct states that “A Group must include Members from at least three political party groups represented within the Assembly”; and
- **Scottish Parliament:** Part 8 of Section 6 of the Code of Conduct states: “A CPG must have at least 5 MSP members including at least one MSP from each of the parties or groups represented on the Parliamentary Bureau. The party representation requirement may be modified or waived by the Standards, Procedures and Public Appointments Committee (the Committee) in certain circumstances”.

Supplementary guidance on CPGs on the Scottish Parliament website notes that: “The SPPA Committee has agreed a waiver to this rule for Session 5 and all CPGs are required to have at least 5 MSP members, with at least one MSP member from the majority of the parties or groups represented on the Parliamentary Bureau”.

³⁵ Standards, Procedures and Public Appointments Committee, *Members’ Interests Bill*, March 2015: <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/87434.aspx>

³⁶ Rules on All-Party Groups, House of Commons, accessed 5 February 2020

The phenomenon of APGs or CPGs appears to be restricted to Westminster-style legislatures. They have not attracted widespread academic interest apart from some comparative work on the Canadian and UK Parliaments. No evidence was found of their existence in other consociational legislatures.

6 Publication of details of admissible complaints

This section outlines the privacy requirements governing the processes around making complaints to standards commissioners.

6.1 House of Commons

In 2010 the House of Commons Committee on Standards and Privileges published its report *Publication of information about complaints against Members*.³⁷

The report noted that its predecessor committee had recommended that the Parliamentary Commissioner for Standards should be allowed to publish more information on complaints against Members of Parliament. In January 2010 the committee set out a proposed way forward on the issue that would include provision for the Commissioner to each month list on his or her website the names of Members who were subject to an inquiry, with a brief description of the nature of the complaint.

The proposals were agreed by the House in December 2010 and Standing Order 150 was amended to include provision for the publication of information about complaints.

Revised approach

The Steering Group established in the wake of the sexual misconduct and bullying claims at the House of Commons recommended a change to this practice. It proposed “that the current practice of publishing on the Commissioner’s website details of all ongoing investigations (i.e. into complaints of breaches of the existing Code of Conduct) should be reconsidered”.³⁸ This was because complaints made under the ICGS would be considered in private, so it would be inconsistent to have different arrangements for other complaints.

The Standards Committee was not persuaded, stating that the current arrangement “strikes a good balance between confidentiality and openness”. Despite this, the House voted through the changes in July 2018, with Commons Leader Andrea Leadsom commenting: “To have one process for non-ICGP and a separate one for ICGP is simply confusing... This is a genuine attempt ... to put confidentiality at the heart, for the sake of the complainant.”³⁹

³⁷ Committee on Standards and Privileges, *Publication of information about complaints against Members*, November 2010: <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmstnprv/577/577.pdf>

³⁸ Committee on Standards, *Independent Complaints and Grievance Policy: Implementation*, July 2018

³⁹ BBC News, *New MPs' code 'risks cover-up claims'* July 2018: <https://www.bbc.co.uk/news/uk-politics-44890194>

The Standards Commissioner has deprecated this move to ending transparency. In her most recent annual report she commented:

Since December 2010 successive Commissioners had been permitted to publish limited information about MPs under investigation for breaching the Code of Conduct. However, since 19 July 2018 I have no longer been permitted to confirm or deny the fact of an investigation into an MP who is alleged to have breached their Code of Conduct, even where this does not relate to bullying, harassment or sexual harassment. This is against the principles of openness and accountability, and in my view has undermined public confidence in the standards system.⁴⁰

6.2 Scottish Parliament

The Commissioner for Ethical Standards in Public Life in Scotland is responsible for investigating complaints about the conduct of MSPs and Section 5(2) of the Parliamentary Standards Commissioner Act 2002 places a duty on the Commissioner to conduct each stage of the investigation in private. This is reiterated in the Code of Conduct. The Standards, Procedures and Public Appointments Committee has nevertheless expressed its frustration at breaches of the confidentiality requirement by members. In a November 2018 report it said:

If details about either a complaint or the contents of the subsequent Commissioner's report appear in the public domain before the Committee has considered and reported on the matter, the Committee may have to carry out its responsibilities against a backdrop of external comment, speculation and judgement. Furthermore, the publicity and media coverage resulting from such a breach of confidentiality may act as a disincentive to making a formal complaint, particularly if it is of a sensitive nature⁴¹.

In March 2019 the SPPA Committee published its report *Code of Conduct for MSPs – proposed revisions to Rules on Confidentiality of the Complaints Process*. This strengthened the requirements to retain the confidentiality of the complaints process after details of complaints being considered by the committee appeared in the media.⁴²

⁴⁰ Annual reports of the Parliamentary Commissioner for Standards: <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliamentary-commissioner-for-standards/publications/annual-reports/>

⁴¹ Standards, Procedures and Public Appointments Committee, *Confidentiality of reports from the Commissioner for Ethical Standards for Public Life in Scotland*, November 2018: <https://sp-bpr-en-prod-odnep.azureedge.net/published/SPPA/2018/11/14/Confidentiality-of-reports-from-the-Commissioner-for-Ethical-Standards-for-Public-Life-in-Scotland./SPPAS052018R07.pdf>

⁴² Standards, Procedures and Public Appointments Committee, *Code of Conduct for MSPs – proposed revisions to implement the recommendations contained in the Joint Working Group's Report on Sexual Harassment and Sexist Behaviour*, December 2018

6.3 National Assembly for Wales

Section 16 of the National Assembly for Wales Commissioner for Standards Measure 2009 places restrictions on the disclosure of information contained within a complaint.

Section 1.5 of the National Assembly for Wales procedure for dealing with complaints against Assembly Members states that:

*Each stage of an investigation into a complaint must be conducted in private. However the Commissioner may at any time make a report to the Committee as to the progress of an investigation into a complaint and must do so if the formal investigation has not been completed within six months of the Commissioner finding that the complaint is admissible.*⁴³

In his most recent annual report, the Commissioner for Standards noted that the confidentiality requirements of the complaints process were not always observed:

Details of two investigations into complaints that I have carried out have been leaked to the media before the Standards Committee has concluded its consideration of my report and the issues involved. The procedure for investigating complaints against Assembly Members is based on confidentiality up to the point when the complaint is upheld and the Standards Committee has completed its consideration.

*There is good reason for this, both from the point of view of the Member complained about and the complainant. If a complaint is not upheld it is unfair that the Member should suffer potentially damaging publicity from a complaint which has not been upheld. Similarly, some complainants do not want their identities publicised and the possibility of leaks is capable of deterring genuine, and possibly sensitive, complaints. In short, leaks undermine the complaints procedure and I have taken additional steps to prevent further leaks and will continue to monitor new technologies to prevent leaks in the future.*⁴⁴

Therefore there appears to be no desire to move away from the status quo within the Scottish Parliament and National Assembly for Wales, while the House of Commons has rolled back on transparency.

7 Training for Members on standards/ethics issues

A paper drafted for the previous Committee on Standards and Privileges (NIAR 406-16) examined the good practice approaches to training/CPD on standards/conduct related matters in other legislatures. That research had found that ethics education and

⁴³ National Assembly for Wales procedure for dealing with complaints against Assembly Members Approved by the Committee on Standards of Conduct on 24 April 2013

⁴⁴ Standards Commissioner Annual Report 2018-19: <https://standardscommissionerwales.org/commissioner-reports>

training were not widespread in a parliamentary context, with the US House of Representatives and Senate providing the most comprehensive approach to ethics training.

The recent allegations of bullying in other legislatures also highlights a distinction between training that might be required to ensure compliance with, for example, financial reporting requirements and that which may be needed to address behavioural issues.

7.1 Training on conduct and behaviour

House of Commons

Although training was rolled out as part of the attempts to tackle inappropriate conduct in the House of Commons, the report by Gemma White noted that: “Voluntary training is not the answer: only 34 out of 650 MPs and 135 out of 3,200 MPs’ staff have attended or booked onto the Valuing Everyone training designed to support the new Behaviour Code introduced in July 2018”.⁴⁵

Scottish Parliament

The Parliament rolled out training for all MSPs, MSP staff, SPS staff and Contractors as part of its ‘Culture of Respect’. The training materials are available on the Parliament’s website at: <https://www.parliament.scot/abouttheparliament/108380.aspx>

7.2 Training on compliance/ethics/standards

In a 2014 report the Committee on Standards in Public Life (CSPL) was critical at the poor take-up of training on offer for new Members following the 2010 general election. The CSPL emphasised the need for individual members to be held accountable in being required to publicly justify their non-attendance along with party managers and leaders playing a role by ensuring attendance. It also challenged whether it was sufficient to simply raise awareness of ethical issues, citing “experimental approaches as the appropriate manner in which to develop the ethical skills of parliamentarians”.

The then Parliamentary Standards Commissioner submitted evidence to the Administration Committee on how her office approached the issue of training and information provision following the 2015 General Election. Some of the key points from her evidence were that:

- The May 2010 election informed the Commissioner’s approach to the 2015 election. After the 2010 election all new members received written material and were offered seminars on the Code of Conduct and Guide to the Rules;

⁴⁵ Report available at: <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliaments-behaviour-code/>

- In 2015 new members were given a welcome pack which included an invitation for a one-to-one briefing;
- New members attended compliance-based seminars in party groupings. Representatives from the Electoral Commission, IPSA and CSPL also spoke; and
- Between 10 May and 8 June 2015 all new members, with the exception of two, were given one-to-one briefings on the Code of Conduct and Guide to the Rules. Briefings lasted around 30-40 minutes.⁴⁶

In terms of learning for future events, the Commissioner noted:

- The arrangements for one to one briefings for new Members were generally welcomed, and in my view have increased the awareness of the Code and the Rules;
- Briefing new Members was a resource intensive exercise. Between 11 May 2015 and 8 June 2015, the task absorbed the equivalent of 2.5 senior staff, and a PA who booked the appointments. In addition, we engaged temporary staff to compile the Registers behind the scenes; and
- Some of the Members who joined the House in 2015 said that in their first few weeks they had too much information to absorb and too many competing demands for their attention. This was stressful and inefficient. It squeezed the time available for our briefings – and no doubt other essential information. Some new Members felt that these briefings were rushed or not detailed enough. Again, the House authorities could learn from the practice of good employers, who ensure enough time is set aside for new arrivals to learn about the working environment and for an exchange of information.⁴⁷

Houses of the Oireachtas

There had been moves to reform the standards regime for the Houses of the Oireachtas with the Public Sector Standards Bill 2015. This Bill would have established a Public Sector Standards Commissioner to replace the Standards in Public Office Commission and who would have overseen a reformed complaints and investigations process.

Section 30 of the Bill stated:

...the Commissioner shall—

⁴⁶ Written evidence submitted by Kathryn Hudson, Parliamentary Commissioner for Standards, for the Administration Committee's inquiry into election planning and services, December 2016:
<http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Administration%20Committee/Election%20Planning%20and%20Services/written/44833.html>

⁴⁷ As above

- (a) draw up and issue a model code of conduct for the guidance of public officials with regard to compliance with the provisions of this Act, and
- (b) promote, through training, education and research, and guidelines issued for the purpose by the Commissioner, the highest standards of conduct and integrity among public officials, and, in particular, regarding the prevention of situations in which conflicts of interest could arise in relation to their duties.

The Bill did not progress to become law. Therefore, the Standards in Public Office Commission continues to oversee a number of different pieces of legislation related to the ethical behaviour of office holders, which include TDs.

In its 2018 Annual Report, SIPO provided an overview of its communications and outreach work: “The Commission secretariat operated drop-in clinics in the Houses of the Oireachtas in January, for members who wished to seek advice on their obligations under the ethics and electoral legislation”⁴⁸.

Approaches to ethics training

Academic research from 2016 explored the issues associated with ethics training for parliamentarians. It noted that:

...recent international research reveals that, in the majority of parliaments throughout the world, ethics education activities are at best limited to a brief topic within pre-sitting inductions of new MPs after elections.

The reasons given for this were:

- MPs are expected to ‘possess indefinable qualities to accomplish an indescribable job’. It is more difficult to adopt a coherent ethical perspective, let alone design specific content, on an occupation whose parameters are so ill-defined;
- Parliamentary officers may take the view that it is not the role of parliament to teach or tell MPs how to behave: it may be the role of political parties, of the electorate, or of no-one in particular;
- In ethics regimes dominated by an informal culture, there is little to persuade MPs that explicit ethics education would be more effective than traditional self-regulation and peer monitoring; and
- Parliamentary staff add to the mix a perceived lack of expertise in ethics and/or designing ethics training content.⁴⁹

⁴⁸ Standards in Public Office Commission Annual Report 2018: <https://www.sipo.ie/reports-and-publications/annual-reports/annual-report-2018/>

⁴⁹ Cristina Neesham, The Value of Ethics Training for Parliamentarians, Newcastle University Press, December 2016: https://eprint.ncl.ac.uk/file_store/production/258918/B71253B8-3758-4B52-AEAB-8D72139F01D7.pdf

The research pointed to evidence supporting advocacy over rules-based training as providing more room for reflection and critical thinking. Essentially, it moves from asking ‘what rule should apply here?’ to ‘how should I discharge my role effectively in this situation?’ The research had found that:

Research on the effectiveness of rule-based ethics education has triggered inconclusive findings. Although teaching rules seems to contribute significantly to enhancing awareness of ethical issues...it has been found less successful in improving ethical behaviour...The reasons most frequently invoked for this weakness are the inherent reductionism of general rules, which cannot capture the rich diversity of issues and nuances in ethically charged situations; the open, unpredictable character of future situations for which there is no precedent and therefore no rule; and the usually limited reflection space provided in the teaching of each prescription.⁵⁰

8 Other issues

One other issue of note during the course of the research was that of sanctions.

In July 2019 the Committee on Standards launched an inquiry into possible reforms to the system of sanctions for breaches of the rules set out in the Code of Conduct for Members of Parliament. One of the issues it sought views on was whether the Commissioner should have the ability to impose sanctions.

Although the committee was dissolved before it could conclude its work, the Commissioner wrote to it to contribute her views. She highlighted that mandatory attendance at training could serve as one possible sanction:

Possible sanction or remedy	Notes	Decision making body
Requirement to attend training Training courses include: <ul style="list-style-type: none"> ▪ Equality and Diversity ▪ Dignity in the workplace ▪ Good employer ▪ Anger management Parliamentary Commissioner for Standards to be able to require MP to attend other bespoke training or coaching as decided	Parliamentary Commissioner for Standards to receive report from provider of training on attendance and engagement of MO, and to follow up one year after training completed.	Parliamentary Commissioner for Standards.

⁵⁰ As above

Appendix 1

Sexual harassment poster – Scottish Parliament

 The Scottish Parliament
Pàrlamaid na h-Alba



All About Respect
Cultar Spèise

Sexual harassment and sexist behaviour have no place at the Parliament

If you have experienced sexual harassment you can get confidential advice, information and support from our new Independent Support Service.

Expert advisers will listen to you and help you decide what action to take, and you can get support to take your complaint forward.

Contact them on a confidential basis by calling **0800 756 9969** or email **contactus@helpeap.com**.
The helpline is available Monday to Friday, **9am to 10pm**

We are an organisation that promotes fairness, equality and dignity for all. We all have a responsibility to treat others with respect and to ensure our behaviour is in line with our Sexual Harassment Policy.

Find out more about our Sexual Harassment Policy at **www.parliament.scot/culture-of-respect**