



Northern Ireland  
Assembly

# Research and Information Service Briefing Paper

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Paper 83/21

NIAR 74-2021

**RaISe**

## Unacceptable behaviours – update on developments in other legislatures

### 1 Introduction

This paper has been produced to inform the Joint Working Group's development on an unacceptable behaviours policy. It provides updated information contained in RaISe paper NIAR 19-2020 and should ideally be read in conjunction with that paper.

The briefing details the latest developments on how legislatures are addressing issues in relation to unacceptable behaviours, including harassment, bullying and sexual harassment. It covers members, members' staff and secretariat staff and the avenues available to them to raise complaints as well as the standards and guidance to which they expected to adhere.

The House of Commons, Scottish Parliament, Welsh Parliament and Dáil Éireann have, to varying degrees, all taken steps to tackle unacceptable behaviours.

## 2 House of Commons

This section provides an overview of the main issues to emerge in recent years.<sup>1</sup>

The House of Commons faced the deepest underlying problems in relation to unacceptable behaviours. Furthermore, proposals to address these issues arguably grew increasingly complex, involving independent reviews, internal initiatives as well as encompassing the Standards Committee and the Parliamentary Commissioner for Standards.

Press reports emerged in November 2017 detailing accounts of bullying and harassment at Westminster. In March 2018, BBC Newsnight reported on some MPs' behaviour towards House of Commons staff.

The response of the House of Commons Commission 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 eventual outworking of these inquiries and investigations saw the establishment of an Independent Complaints and Grievance Scheme (ICGS) in July 2018, and an Independent Expert Panel to hear complaints raised under the Scheme in June 2020.

### Independent Complaints and Grievance Scheme

The Behaviour Code along with the Sexual Misconduct and Bullying and Harassment policies “work together as part of the Independent Complaints and Grievance Scheme to provide a framework...create a respectful and courteous working environment and to respond to any allegations of unacceptable behaviour promptly, fairly and effectively... The Independent Complaints and Grievance Scheme is Parliament’s mechanism for handling complaints of bullying, harassment or sexual misconduct.”<sup>23</sup>

The ICGS offers an independent helpline and is supported by independent investigators. Training to tackle bullying, harassment and sexual harassment underpins the ICGS.

If a person wishes to make a complaint that is not covered by the ICGS, then they can use the Grievance Process. Furthermore, “Those working for MPs may be able to use

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<sup>1</sup> See RaISe paper 19-2020 for a more detailed discussion.

<sup>2</sup> Using the Independent Complaints and Grievance Scheme (ICGS): *guide for complainants*: [https://www.parliament.uk/contentassets/3df71b70e8e847f498932d63dede801a/icgs-bullying-user-guide\\_complainants\\_interactive-pdfs\\_update.pdf](https://www.parliament.uk/contentassets/3df71b70e8e847f498932d63dede801a/icgs-bullying-user-guide_complainants_interactive-pdfs_update.pdf)

<sup>3</sup> The ICGS also applies to staff of the House of Lords

any complaints process available within the relevant political party or contract of employment.”<sup>4</sup>

At the heart of the debate has been the extent to which it is desirable to remove MPs from consideration of complaints by staff against MPs. The independent report by Dame Laura Cox had recommended 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.*<sup>5</sup>

When the ICGS was originally established, the Standards of Conduct Committee heard appeals under the Scheme. The Committee accepted this role until the full package of reforms were in place.

The House of Commons Commission was responsible for developing and implementing the fully independent system envisioned in the Dame Laura Cox report. In April 2020, the Commission reported on its preferred option, based around an independent expert panel. The key points of the Commission’s report included:

- The House would be asked to consider whether or not there should be a time limited debate led by a member of the House of Commons Commission in the very rare circumstances where it is asked to implement a sanction of suspension or expulsion of a Member following a panel determination;
- The Independent Expert Panel would not include a former Member;
- The Independent Expert Panel would adopt the Committee on Standards appeals framework;
- The recruitment process would select a Chair for the panel;
- The Independent Expert Panel would use the confidentiality processes established by the Committee on Standards; and
- The Commons Executive Board, in conjunction with the Commission, would finalise the person specification and conduct the recruitment process.<sup>6</sup>

The Commission, in its consultation, had stated that its preference was for the:

*Parliamentary Commissioner for Standards (PCS) [to] retain the power to determine cases and impose sanctions up to a certain level of severity. The new independent expert panel would consider cases where more serious*

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<sup>4</sup> Using the Independent Complaints and Grievance Scheme (ICGS): *guide for complainants*: <https://www.parliament.uk/contentassets/3df71b70e8e847f498932d63dede801a/icgs-bullying-user-guide-complainants-interactive-pdfs-update.pdf>

<sup>5</sup> House of Commons Library, *Independent Complaints and Grievance Scheme: independent investigations*, January 2021 <https://researchbriefings.files.parliament.uk/documents/CBP-8944/CBP-8944.pdf>

<sup>6</sup> As above

*sanctions were considered appropriate and also hear appeals by either party against the PCS's conclusions.*<sup>7</sup>

The possibility of decisions of the new Panel being debated on the floor of the House proved contentious. In an article at [politicshome.com](http://politicshome.com), Dr. Hannah White of the Institute for Government argued that although the new ICGS had much to recommend it, “it risks being fundamentally undermined by the government’s insistence that MPs should get an opportunity to debate the most serious cases.”<sup>8</sup>

This would go beyond allowing MPs a vote on the sanctions and would be contrary to the recommendations in the Cox report.

Current and former parliamentary staff also criticised the possibility of complaints and sanctions being debated, which they believed could serve as a deterrent on people coming forward to report unacceptable behaviour.

The House debated the issue on 23 June 2020 and agreed the establishment of the Independent Expert Panel. The Leader of the House, Jacob Rees-Mogg MP, had tabled a motion that would have allowed the findings of a report by the expert panel to be debated. However, the House agreed an amendment tabled by Chris Bryant MP which ensured that any decisions taken by the Panel that need approval of the House are decided without debate.<sup>9</sup>

### **Appointment and functions of the Independent Expert Panel**

The Independent Expert Panel determines complaints referred to it under the ICGS. Its functions are:

- a) to determine the appropriate sanction in ICGS cases referred to it by the Parliamentary Commissioner on Standards;
- (b) to hear appeals against the decisions of the Parliamentary Commissioner for Standards in respect of ICGS cases involving Members of this House;
- (c) to hear appeals against a sanction imposed under paragraph (a)
- (d) to report from time to time, through the Clerk of the House, on the operation of the ICGS as it relates to Members of this House.

The sanctions determined by the Panel could include the suspension or expulsion of an MP, which would then require a vote in the House. Less severe sanctions can be imposed directly by the Panel. These can include (but are not limited to):

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<sup>7</sup> House of Commons Library, *Independent Complaints and Grievance Scheme: independent investigations*, January 2021

<sup>8</sup> [Politicshome.com, If MPs debate sanctions, the new bullying and harassment process will be fundamentally undermined](https://www.politicshome.com/thehouse/article/if-mps-debate-sanctions-the-new-bullying-and-harassment-process-will-be-fundamentally-undermined), June 2020: <https://www.politicshome.com/thehouse/article/if-mps-debate-sanctions-the-new-bullying-and-harassment-process-will-be-fundamentally-undermined>

<sup>9</sup> House of Commons Library, *Independent Complaints and Grievance Scheme*, November 2020: <https://researchbriefings.files.parliament.uk/documents/CBP-8369/CBP-8369.pdf>

### Figure 1: Sanctions available to the Independent Expert Panel

- a) An apology to the complainant/reporter in writing
- b) An apology in the House through the making of a personal statement or on a point of order
- c) Suspension
- d) Expulsion

If we determine a sanction that can only be imposed by the House, such as suspension or expulsion, the sanction will be voted on by the House without debate.

If the respondent/responder is no longer a Member, access to the estate may be restricted through withdrawal or refusal of a former Member's pass.

On 25 November 2020 the House approved a motion to appoint members to the new Panel. Following an open competition which attracted 134 applicants, eight members were appointed. The selection panel recommended that four of the new appointments should be for a term of six years and four of the new appointments should be for a term of four years. Details of the appointments can be found at Appendix 1.

### First report of the Panel

The Panel has, to date, heard one appeal against a decision of the Parliamentary Standards Commissioner. The original complaint was raised before the appointment of the Panel and the "appeal was therefore managed in accordance with the framework established by the House of Commons Committee on Standards in its 2019 report, *The Committee's role in ICGS appeals*."<sup>10</sup>

The Panel's Chair appoints a sub-panel to consider appeals.

The Reporter's (the Panel's term for the person who complained) appeal to the Panel was dismissed and the decision of the Commissioner was upheld:

*We have considered each of the Reporter's five grounds of appeal with some care. In our judgment there is no merit in any of the grounds. We therefore do not accept that there are any valid grounds for an appeal. For that reason, it is our decision that this appeal by the Reporter must be dismissed.*<sup>11</sup>

<sup>10</sup> Report of the Independent Expert Panel on the conduct of Ross Thomson: <https://www.parliament.uk/globalassets/mps-lords-offices/standards-and-financial-interests/independent-expert-panel/hc-1235---the-conduct-of-mr-ross-thomson.pdf>

<sup>11</sup> As above

## Review of the ICGS

In February 2021, the independent 18-month review of the ICGS by Alison Stanley CBE was published. She had previously carried out the 6-month review of the Scheme.

The report recognised the progress made and the fact that the scheme was embedded within the organisation. However, it noted that:

*Its operation and processes have become over complex and there is a perception amongst the Parliamentary community that it is a stressful, isolated and lengthy process. This has been the experience of many of the contributors to the review, in particular during an investigation. Some groups are less likely to use the Scheme for confidential support and advice or to make a claim.*<sup>12</sup>

The report made a number of recommendations aimed at simplifying and streamlining the process, noting that some respondents to the review felt that the “process of making a complaint is very stressful and overly complex”.<sup>13</sup>

The review examined in detail the operational aspects of the scheme but also addressed the cultural context within which the ICGS operates:

*It is part of a wider set of organisational initiatives and practices which help shape workplace culture and behaviour. Appreciation of its interdependence with the wider workplace environment is crucial if it is to work properly and in turn underpin changes in behaviour.*<sup>14</sup>

Responding to the review, the Clerk of the House of Commons welcomed the 18-month review and emphasised that:

*Alison Stanley’s comprehensive recommendations will be considered with the utmost seriousness. Bullying, harassment and sexual misconduct have no place in Parliament.*<sup>15</sup>

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<sup>12</sup> Independent Complaints & Grievance Scheme, *Independent 18-month review*, February 2021:

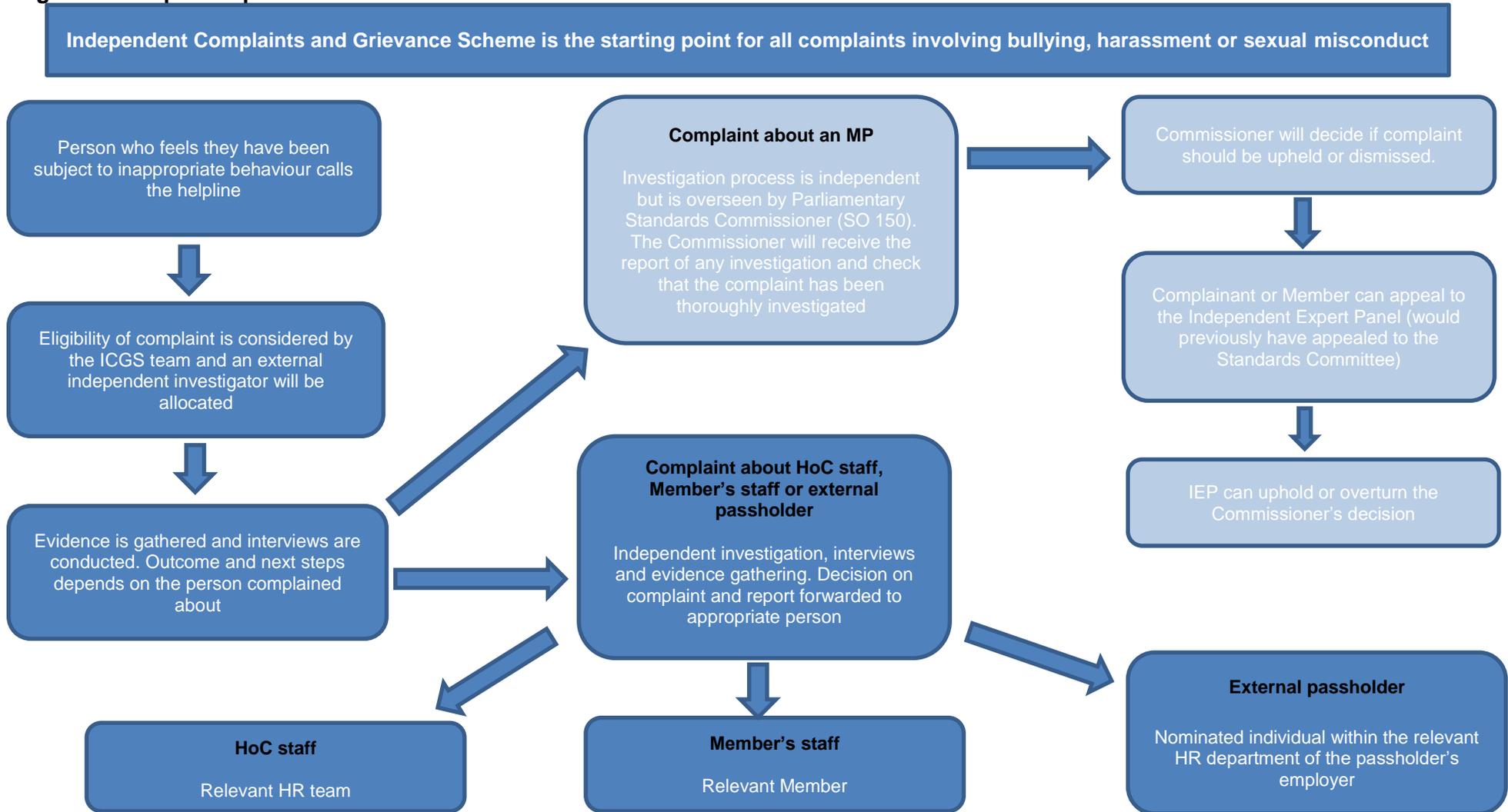
[https://www.parliament.uk/contentassets/e3ed0297d92a400bb249c887a30aa59b/icgs-18-month-review\\_final.pdf](https://www.parliament.uk/contentassets/e3ed0297d92a400bb249c887a30aa59b/icgs-18-month-review_final.pdf)

<sup>13</sup> As above

<sup>14</sup> Independent Complaints & Grievance Scheme, *Independent 18-month review*, February 2021

<sup>15</sup> Politicshome.com, *The ICGS review shows that we have made progress, and we will continue to build trust*, February 2021: <https://www.politicshome.com/thehouse/article/the-icgs-review-shows-that-we-have-made-progress-and-we-will-continue-to-build-trust>

**Figure 2: complaints process under the ICGS**



### 3 Scottish Parliament

The Scottish Parliament faced similar issues to the House of Commons, albeit not on the same scale.

The Parliament has in place a Dignity at Work Policy and Sexual Harassment Policy.

#### Sexual Harassment

The Parliament's Sexual Harassment Policy sets out a 'Zero Tolerance' approach to sexual harassment and sexist behaviour. As part of this, an Independent Support Service has been established to handle complaints into such behaviour. Complaints can be resolved informally or formally, but formal complaints regarding sexual harassment by MSPs will be investigated by the Ethical Standards Commissioner rather than the Independent Support Service.

#### Dignity at Work

The Scottish Parliament's Dignity at Work Policy extends to all staff employed by the Scottish Parliamentary Corporate Body, as well as other staff, including those on secondment from other organisations, contractors and agency workers.

The Policy does **not** extend to MSPs. The Policy states that: "In the event of a complaint of bullying or harassment or any other inappropriate behaviour against a Member or their member of staff, procedures set out in the Code of Conduct should be followed."<sup>16</sup>

#### Joint Working Group on Sexual Harassment and Sexist Behaviour

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.*<sup>17</sup>

The Group's report was published in December 2018. It 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.

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<sup>16</sup> Scottish Parliament, Dignity at Work Policy and Complaints Process:  
<https://www.parliament.scot/abouttheparliament/16483.aspx>

<sup>17</sup> Scottish Parliament, *Report of the Joint Working Group on Sexual Harassment*, December 2018:  
<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/111615.aspx>

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*.

## Changes to the Code of Conduct

In January 2020 the parliament agreed changes to the Code of Conduct for MSPs. The key changes were:

- Changing the process for the enforcement of the rules to allow complaints under the Code of Conduct about a MSP's treatment of a member of the Parliament's staff or a MSP's treatment of a member of staff of another member to be made directly to the Commissioner for Ethical Standards in Public Life (the Commissioner). Previously, these had been “excluded complaints” under the Code.
- The insertion of a specific reference to MSPs’ own staff in the standard of conduct on the treatment of others, allowing the Parliament “to hold Members to account for their behaviour towards their own staff in the same way as their behaviour towards anyone else.” The new standard requires MSPs to treat their own staff with courtesy and respect, as well as other MSPs, parliamentary staff (including contractors providing services to the Parliament) and the staff of other MSPs.
- The revision of the standard of conduct for the treatment of others to make it clear that MSPs must not behave in a manner towards others, including their own staff, that includes bullying, harassment (including sexual harassment) or any other inappropriate behaviour.<sup>18</sup>

In his 2019/20 Annual Report, the Ethical Standards Commissioner noted his expanded remit as a result of the amended Code of Conduct:

*In January 2020, the Scottish Parliament issued an amended Code of Conduct for MSPs to include complaints from MSP staff and parliamentary staff, of bullying, harassment (including sexual harassment) and other inappropriate behaviour. Further restructuring may be required in due course to cater for complaints arising under this newly expanded scope, which has the potential for considerable operational impact, particularly with the intended removal of the time bar for all MSP complaints.<sup>19</sup>*

<sup>18</sup> Standards, Procedures and Public Appointments Committee, Proposal for a Committee Bill –Complaints against MSPs – amendment of the Scottish Parliamentary Standards Commissioner Act 2002: <https://sp-bpr-en-prod-cdnep.azureedge.net/published/SPPA/2020/6/23/Proposal-for-a-Committee-Bill---Complaints-against-MSPs---amendment-of-the-Scottish-Parliamentary-Standards-Commissioner-Act-2002/SPPAS052020R07.pdf>

<sup>19</sup> Ethical Standards Commissioner, Annual Report 2019/20: <https://www.ethicalstandards.org.uk/sites/default/files/publications/ESC%20Annual%20Report%20and%20Accounts%202019-20%20FINAL.pdf>

## Committee Bill

In November 2019 the Standards, Procedures and Public Appointments Committee instructed a Committee Bill which would “deal with complaints about historic sexual harassment by Members of the Scottish Parliament towards their own staff and to remove the requirement for a signature on complaints”.<sup>20</sup>

Legislative change is required to implement two of the recommendations made by the Joint Working Group (JWG):

- Provisions to allow the Commissioner to investigate complaints about historic sexual harassment by MSPs towards their own staff
- Provisions to remove extra requirements for the Commissioner to investigate older complaints.

The Parliament debated the Committee’s proposal report on 29 September 2020 and agreed to the Committee’s proposal to introduce a Bill to giving effect to the policy set out in its report.

## Proposed changes to the Code of Conduct

During its consideration of the report of the JWG, the Standards, Procedures and Public Appointments Committee considered whether “Section 7 of the Code should be further extended to introduce a new standard for the treatment of individuals who MSPs come into contact with while performing their role as parliamentarians”. The Committee agreed to defer consideration of this matter to a later date.

It is now consulting on that proposed change which would amend the Code of Conduct as follows (proposed changes in red):

### Figure 3: proposed change to Scottish Parliament Code of Conduct

#### Treatment of others

7.5. Members must treat the following individuals with courtesy and respect:

- other MSPs;
- parliamentary staff (including contractors providing services to the Parliament); and
- their own staff and the staff of other MSPs.

7.6. Members must not behave in a manner towards these **individuals those individuals in 7.5 or any individuals they are in contact within their capacity as MSPs**

<sup>20</sup> Standards, Procedures and Public Appointments Committee, Proposal for a Committee Bill –Complaints against MSPs – amendment of the Scottish Parliamentary Standards Commissioner Act 2002

that involves bullying, harassment (including sexual harassment), or any other inappropriate behaviour.

The consultation document goes on to explain that:

*This approach has been designed to ensure that the Parliament would be able to hold MSPs to account if they behaved inappropriately towards individuals external to the Parliament - such as members of the public, constituents or CPG members for example - who they had come in to contact with as a result of performing their Parliamentary duties.*

*The proposed change would not:*

- *interfere with an MSP's private life;*
- *apply to minor instances of discourtesy or disagreement; or*
- *curtail an MSP's freedom of expression and ability to take part in robust political discourse.<sup>21</sup>*

In its response to the consultation the Scottish Government made the following points:

- *The Government notes that the revised text makes no specific reference to staff of the Scottish Government or, given scope for staff of other Governments to come into contact with Members, civil servants of other administrations. A specific reference might be justified in reflection of the level and frequency of contact civil servants, in their professional capacity, can have with parliamentarians (the same principle might equally apply with regard to constituents).*

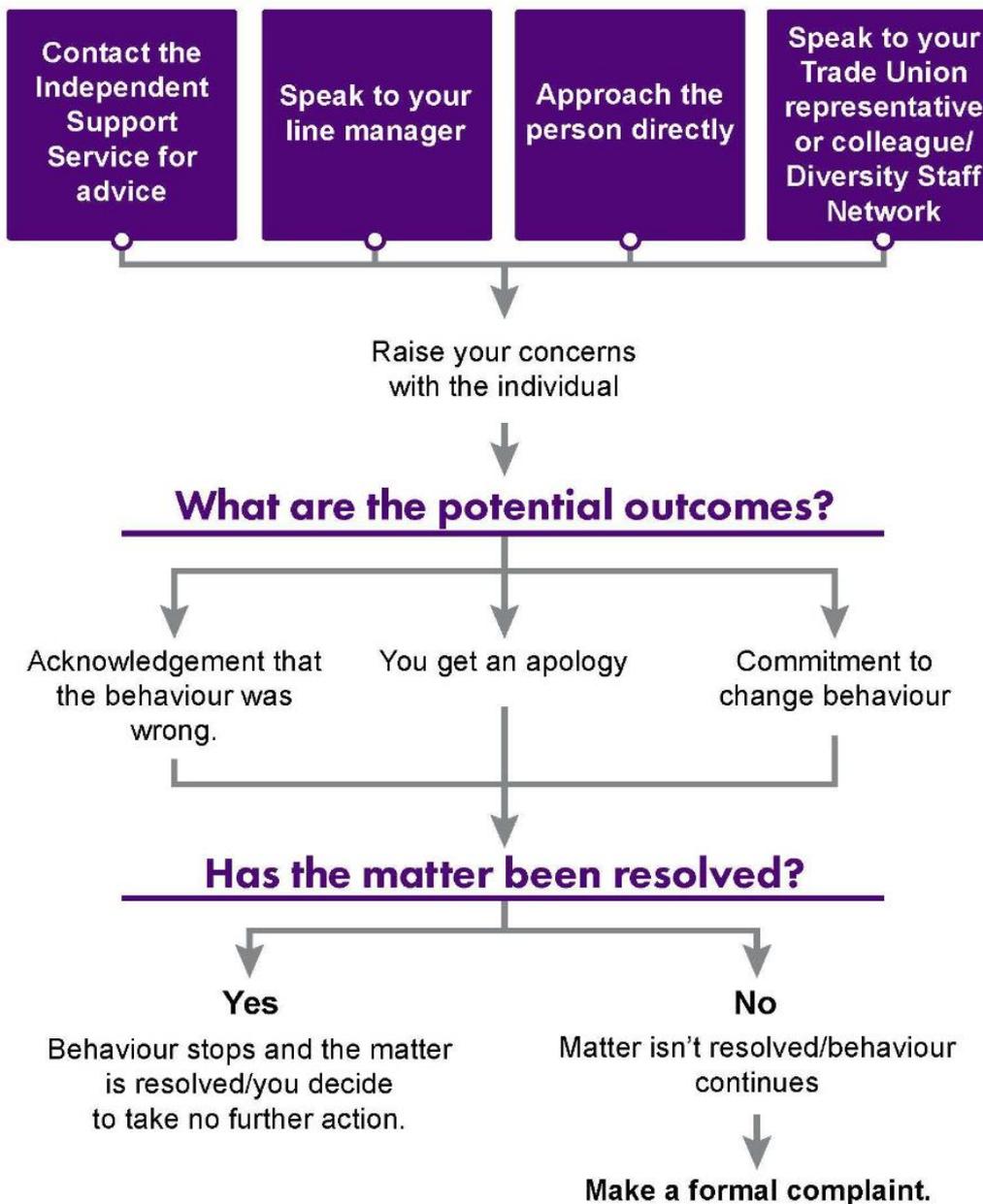
*The Government would welcome the Committee giving consideration to whether the terms of the Code should, in the interests of clarity to all, make specific reference to civil servants (to reflect the broader interactions that MSPs have with civil servants) and/or public officials (to reflect the broader interactions that MSPs have with public bodies etc). The Government understands that any provisions for MSPs would not cut across the role that individual employers might play in supporting their staff who interact with MSPs.*

- *The Government also considers that the proposed revisions to the Code could result in the unintended consequence of inferring disparity between those individuals referenced at paragraph 5 and those in paragraph 6 in terms of the behaviours expected of Members, i.e. whether Members expected to treat any individuals they are in contact with in their capacity as MSPs with courtesy and respect, or only those individuals covered by paragraph 5.<sup>22</sup>*

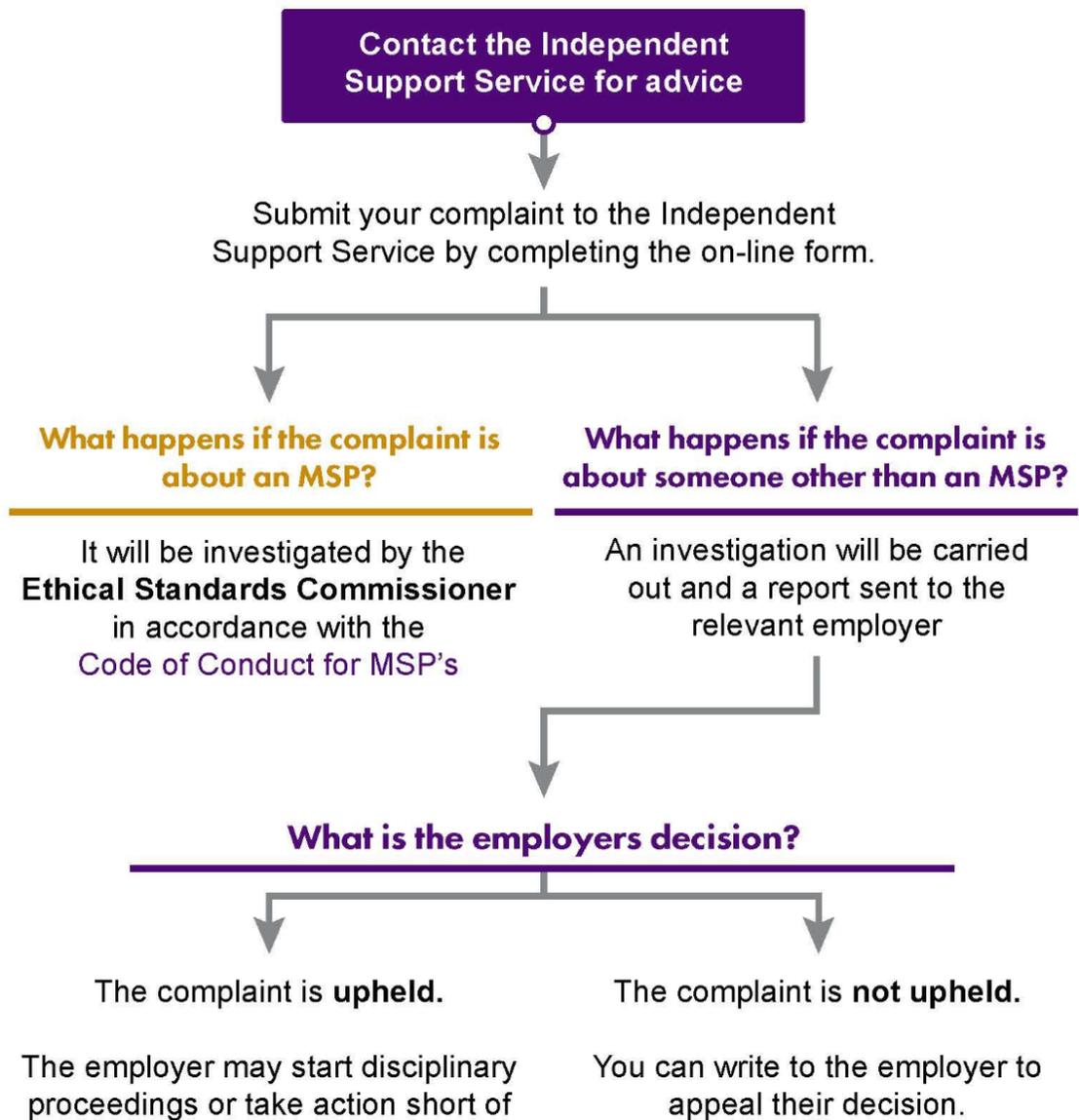
<sup>21</sup> [https://www.parliament.scot/S5\\_Standards/Inquiries/20201208FinalConsultationDoc.pdf](https://www.parliament.scot/S5_Standards/Inquiries/20201208FinalConsultationDoc.pdf)

<sup>22</sup> [https://www.parliament.scot/S5\\_Standards/Inquiries/MfPB.pdf](https://www.parliament.scot/S5_Standards/Inquiries/MfPB.pdf)

**Figure 4: Making an informal complaint about sexual harassment**



**Figure 5: Making a formal complaint about sexual harassment**



**Note:**

You do not have to raise your concern informally prior to making a formal complaint

### 3 Welsh Parliament

The Dignity and Respect Policy was launched in May 2018. The new policy means that a range of groups can 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;
- 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.

There are various reporting routes to make complaints under the Dignity and Respect Policy and these are set out below.

Furthermore, the Standards Committee is reviewing the Code of Conduct to, in part, better align it with the Dignity and Respect Policy. The Code as it currently stands applies to members at all times, including actions undertaken in their private lives. The Committee is aware that this differs to codes in other legislatures and sought views on this aspect of the Code.

The Committee published its proposed Code on 17 March. It contains an additional principle – Respect – “as part of wider overarching principles about how Members should behave”. The provision in relation to members’ private lives has been retained.

**Figure 6: pathway for Members of the Senedd to complain**

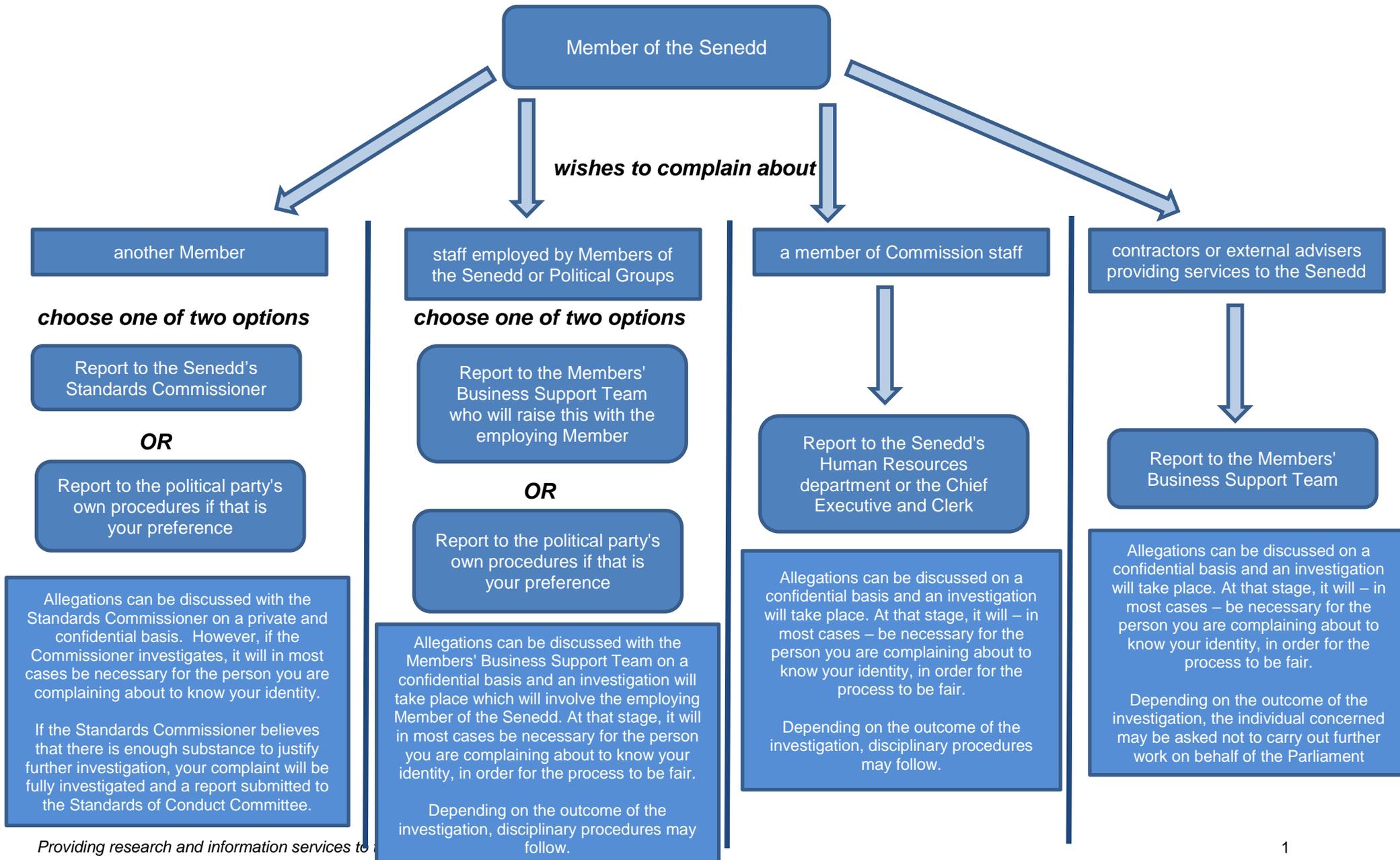
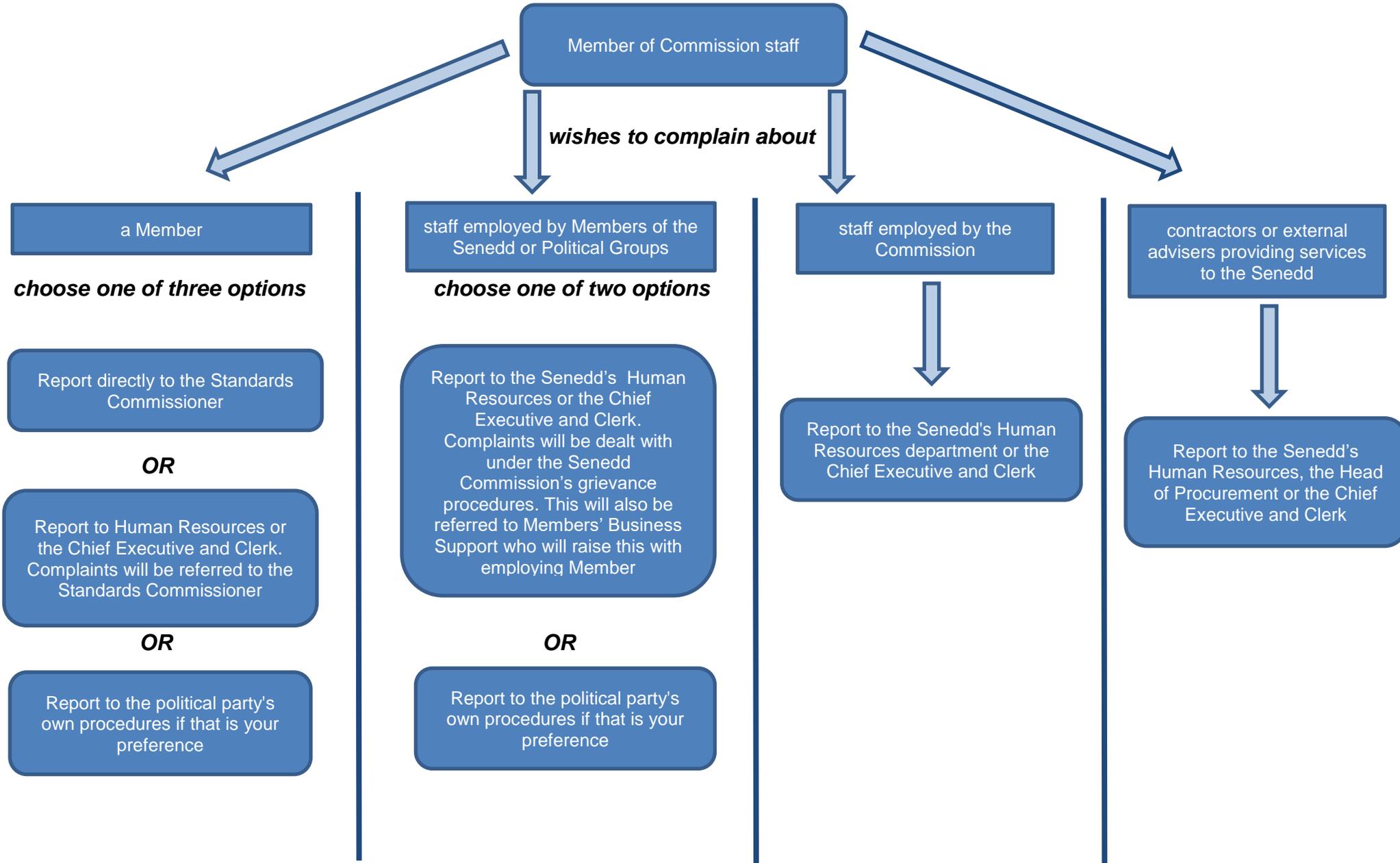
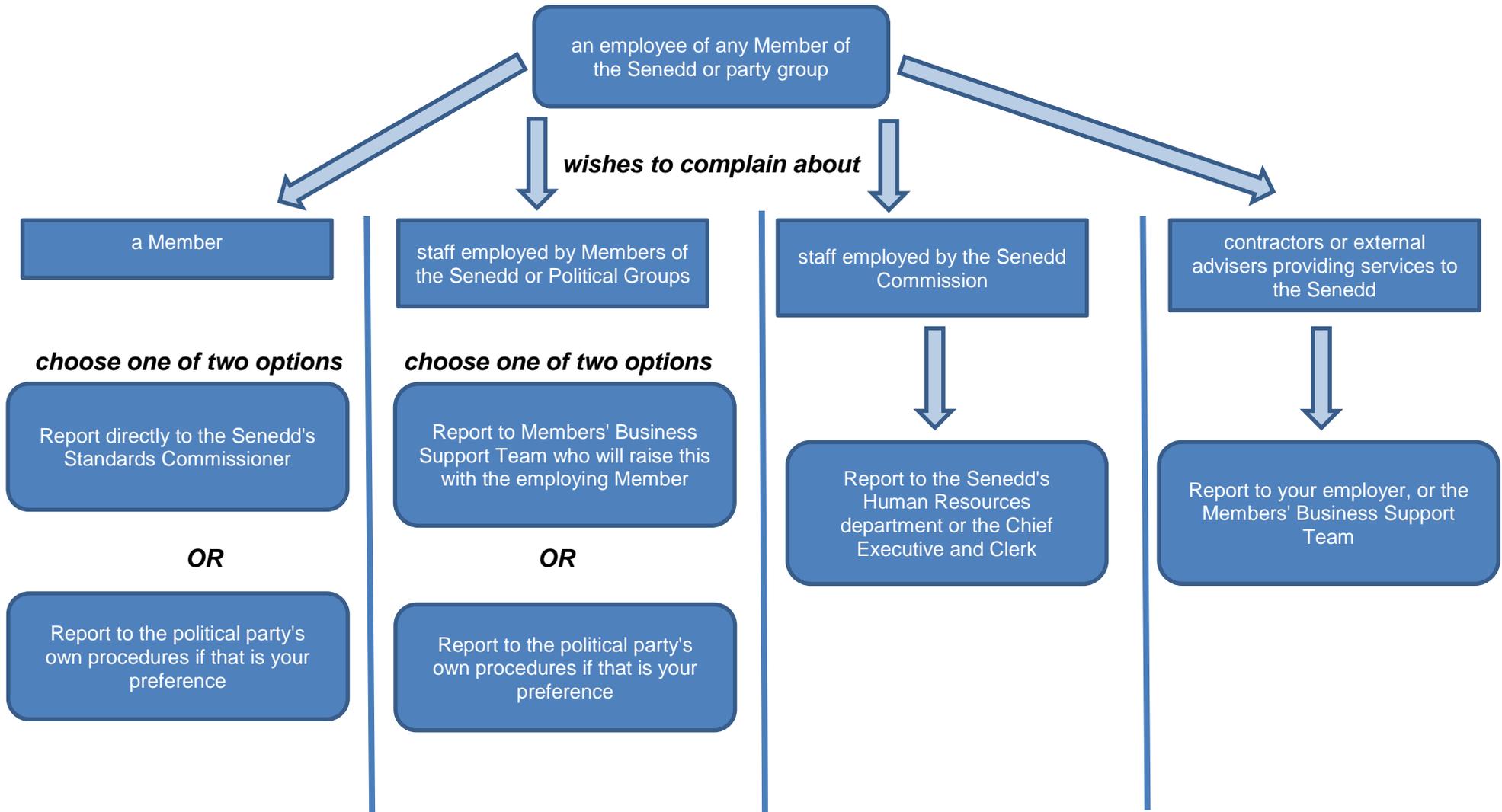


Figure 7: pathway for Senedd staff to complain



**Figure 8: pathway for Members' staff to complain**



## 4 Dáil Eireann

The Houses of the Oireachtas has also sought to address allegations of bullying and harassment. In March 2019 the Houses of the Oireachtas Commission launched its Dignity and Respect Statement of Principles and Policy:

- The **Dignity and Respect Statement of Principles** sets the standards of respect, dignity, safety and equality that apply to everyone in the Parliamentary Community – Members of the Houses, the staff employed by Members and by Political Parties, interns and those on work placements, political correspondents working in the Houses and the staff of the Houses of the Oireachtas Service (the “Oireachtas Service”). The principles apply in the Parliamentary Workplace, which includes Leinster House and its environs, constituency offices, meetings, conferences, training events, official travel, and work related social occasions, provided there is a sufficient link with the work of the Member and his/her employees.
- The **Dignity and Respect Policy** provides a standard policy and resolution procedures which the Members and Political Parties as employers shall adopt to ensure that their procedures for dealing with any issues arising under the Dignity and Respect Statement of Principles and Policy comply with relevant legal and standard codes of practice.
- The **Civil Service Dignity at Work Policy 2015** continues to apply to all Civil Service staff of the Houses of the Oireachtas Service.

A subsequent survey of those in the parliamentary workplace found that the majority of respondents to the survey believed they were treated with respect and that the Oireachtas was a safe place to work. However, 15% of respondents said they had been subject to bullying, although over three quarters of those people had not made a formal report.

### Figure 9: Extract from Oireachtas Press Release on bullying and harassment<sup>23</sup>

22 October 2019

An independent, confidential online survey was conducted by Coyne Research, on behalf of the Oireachtas Commission, between the 25th March – 15th April 2019 amongst all those who work in the parliamentary workplace, including staff employed by the Service, staff employed by Members or political parties, TDs, Senators and journalists. A total of 1,401 people were eligible to participate in the survey, with 515 people completing it, representing a 37% response rate. 54% of Oireachtas staff and 25% of Political Staff or Members responded.

<sup>23</sup> Houses of the Oireachtas Commission publishes findings of online survey regarding bullying, harassment and sexual harassment in the parliamentary workplace: <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/>

The survey results indicate that 78% of people feel that the Houses of the Oireachtas is a safe place work and 61% feel that they are treated with respect. However, inappropriate behaviour, in particular bullying, does occur in the parliamentary workplace with 15% of people stating that they have experienced bullying. The authors of the Report, Coyne Research, say that it is unsafe to draw conclusions from the small sample number relating to harassment/sexual harassment behaviours.

The following support services assisted in the implementation of the Statement of Principles – for Members and their staff. These included:

- Information seminars and training
- Members' HR Unit
- Workplace Support Programme (a secure and confidential telephone helpline, telephone and face-to-face counselling sessions to a maximum of 6 counselling sessions per case, and a dedicated website/online support system providing topical health and well-being information)
- Dignity and Respect helpline (service will be available to Members, Political Parties and their staff, and this will act as the Designated Contact Person for the Dignity and Respect Policy. The Dignity and Respect Helpline will be a first point of contact for anyone experiencing issues relating to bullying, harassment or sexual harassment)
- Mediation Services

Services available to staff of the Oireachtas Commission include:

- Personnel Officer, HR Unit
- Employee Assistance Service for staff of the Oireachtas Service (Employee Assistance Officers are trained personnel who are available to offer confidential support and guidance to staff of the Oireachtas Service who may be experiencing personal and/or work-related difficulties)
- Civil Service Mediation Services

### Latest position

In November 2020, RTÉ published a report on its website that highlighted the perceived slow progress in addressing the issue of bullying of political staff by TDs and Senators. The report stated that:

*Over a dozen current and former parliamentary and secretarial assistants outlined to RTÉ this past week how they say they were bullied on the job, with some employees saying they were left with serious mental health issues after their experience.<sup>24</sup>*

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<sup>24</sup> RTE, Political bullies: 'It's your word against theirs and they have all the power', November 2020: <https://www.rte.ie/news/politics/2020/1113/1178052-politics-bullying/>

The report went on to say:

*Nearly all of the current and former parliamentary and secretarial assistants who spoke to RTÉ said they felt as if they had nowhere to go when experiencing bullying or harassment in the Oireachtas.*

*Some brought their concerns to Oireachtas HR, but claimed that as parliamentary and secretarial assistants are directly employed by their TD or Senator there was little officials could do. Others brought concerns to their respective political parties, but also found it fruitless.<sup>25</sup>*

There was also minimal uptake of training in relation to the Dignity and Respect Policy, with “six TDs or Senators attend(ing) training on the Oireachtas' new Dignity and Respect Policy when provided in September, with 11 political staff also attending.”<sup>26</sup>

## 5 International perspectives

### Commonwealth Parliamentary Association Toolkit

In 2020 the Commonwealth Parliamentary Association published its *Anti-Harassment Policy Guidelines: A Toolkit for Commonwealth Parliaments*. One section of the report sets out reasons why harassment occurs in parliaments, while recognising that this will vary from country to country:

- the abuse or misinterpretation of power;
- the existence of certain social behaviours and norms;
- a lack of accountability;
- little to no performance management;
- the failure to establish robust communication between the employer and employee;
- absence or lack of clear procedures needed to successfully resolve complaints;
- the false assumption that harassment isn't an issue or applicable to the parliament;
- issues around the role of parliamentarians being both the employer and client;
- the lack of resources and time dedicated to developing and implementing existing anti-harassment policies;

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<sup>25</sup> RTE, Political bullies: 'It's your word against theirs and they have all the power', November 2020:

<sup>26</sup> As above

- misconception that good behaviour only extends to actions taken in the chamber and not outside of parliament;
- poor internal communication and insufficient understanding of the role and remit of staff;
- the perception of bias or partisanship of staff;
- the belief that tackling the issue or developing policies to address harassment is the responsibility of others;
- the existence of certain working practices and conditions that may create an environment of potential harassment, such as travelling abroad for work and working anti-social hours.<sup>27</sup>

The report went on to offer legislatures practical advice on how to implement policies to address workplace bullying and harassment. This included the development of working groups alongside staff surveys and factors to consider when designing a policy.

## Inter-Parliamentary Union

In 2018, the Inter-Parliamentary Union (IPU) published its report *Sexism, harassment and violence against women in parliaments in Europe*.<sup>28</sup> It was based on one-to-one conversations with 123 women from 45 European countries. Eighty-one of the women were elected representatives and 42 were parliamentary staff. The key findings were:

### *Female elected representatives*

- 85.2 per cent of female MPs who took part in the study said that they had suffered psychological violence in the course of their term of office;
- 46.9 per cent had received death threats or threats of rape or beating;
- 8.2 per cent had been the target of online sexist attacks on social networks;
- 67.9 per cent had been the target of comments relating to their physical appearance or based on gender stereotypes;
- 24.7 per cent had suffered sexual violence; and
- 14.8 per cent had suffered physical violence.

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<sup>27</sup> Commonwealth Parliamentary Association, *Anti-Harassment Guidelines*, October 2020:

[http://www.cpahq.org/cpahq/Main/News/News\\_Items/CWP\\_launches\\_Anti\\_Harassment\\_Guidelines\\_Oct\\_2020.aspx](http://www.cpahq.org/cpahq/Main/News/News_Items/CWP_launches_Anti_Harassment_Guidelines_Oct_2020.aspx)

<sup>28</sup> Inter-Parliamentary Union, *Sexism, harassment and violence against women in parliaments in Europe*, October 2018:

<https://www.ipu.org/resources/publications/issue-briefs/2018-10/sexism-harassment-and-violence-against-women-in-parliaments-in-europe>

### *Female parliamentary staff*

- 40.5 per cent of those interviewed said that they had suffered acts of sexual harassment in their work. In 69.2 per cent of cases, the perpetrators were male MPs.
- 50 per cent had received comments of a sexual nature. In 61.5 per cent of cases, such comments had come from a male MP.
- 19.5 per cent of those interviewed had also suffered psychological harassment/bullying in their work in parliament from MPs and colleagues in the parliamentary staff, mostly from men but also from women.

The IPU called on parliaments to respond positively to the findings, in particular to:

Make it perfectly clear that sexist behaviour, psychological and sexual harassment and gender-based violence in parliament are totally unacceptable, and clearly state what remedies are available to MPs and parliamentary staff;

Ensure that those who believe they are victims of harassment and assault can have access to assistance and advice services offering total confidentiality;

Put in place a complaints and investigation mechanism which is confidential, fair and responsive to victims' concerns;

Introduce and apply disciplinary sanctions against the perpetrators;

Run training for all persons working in parliament on respect at work and the fight against sexism and harassment; and

Conduct surveys on sexism, harassment and violence against women in each parliament in line with the approach adopted in this study.

Source: IPU, *Sexism, harassment and violence against women in parliaments in Europe*, October 2018

### **Other legislatures**

The parliaments of Canada and New Zealand have recently introduced, or are in the process of introducing, measures to address inappropriate behaviour.

In December 2014, the Canadian House of Commons introduced a *Policy on Addressing and Preventing Harassment*. This was replaced in January 2021 by the *Workplace and Harassment Prevention Policy*. Both the previous and current policy

apply to Members and to their employees in the workplace. It also applies to former employees in the circumstances set out in the policy.<sup>29</sup>

In January 2021, Bill C-65, an Act to amend the Canadian Labour Code came in to force. It brought sexually harassment protections to all federally employed workers, including those in Parliament.<sup>30</sup>

In 2019 an independent, external review of the New Zealand Parliament made 85 recommendations on how the Parliament could more effectively address bullying and harassment. The review found that “the risk of bullying and harassment was heightened due the high-intensity culture; a lack of investment in leadership development [and] barriers to making complaints.”<sup>31</sup>

The recommendations included:

- the creation and implementation of the Parliamentary Workplace Code of Conduct, which would be adopted by political parties, Parliamentary Service, Office of the Clerk, Ministerial Services, and the Press Gallery;
- a new specialist HR advisory board;
- a new chief people officer to lead HR services for Parliamentary Service and Office of the Clerk;
- an independent commissioner with investigative powers.

Work is ongoing to implement these recommendations.

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<sup>29</sup> House of Commons Canada, *Members of the House of Commons Workplace Harassment and Violence Prevention Policy*, January 2021: [https://www.ourcommons.ca/content/boie/pdf/policy\\_preventing\\_harassment-e.pdf](https://www.ourcommons.ca/content/boie/pdf/policy_preventing_harassment-e.pdf)

<sup>30</sup> Parliamentary Affairs, *Privilege and Gendered Violence in the Canadian and British Houses of Commons: A Feminist Institutional Analysis*, January 2021: <https://academic.oup.com/pa/advance-article/doi/10.1093/pa/gsaa069/6104549>

<sup>31</sup> Newsroom.co.nz, *Bullying and harassment in Parliament - one year on*, July 2020: <https://www.newsroom.co.nz/bullying-and-harassment-in-parliament-one-year-on>

## Appendix 1

### Biographies of the members of the Independent Expert Panel

Member	Biography
Mrs Lisa Ball	<p>Lisa Ball has two decades' experience determining cases and complaints in a range of fields including bullying, sexual harassment, discrimination, misconduct and professional standards. In 2008 she was appointed as one of the first independent members of the Armed Forces Service Complaints Panel and since 2009 she has also acted as the independent member of the Queen's Counsel Complaints Committee.</p> <p>Lisa has previously served in various independent and lay roles and is a trained mediator.</p>
Monica Daley	<p>Monica Daley is a barrister of 25 years' standing. She has acted in a judicial capacity since 2006, first as a Fee-Paid Property Judge of the Residential Property Tribunal and also, more recently, as a fee-paid judge for both the Health and Social Care Tribunal and the Special Education and Disability Tribunal dealing with appeals in cases involving sensitive and confidential issues.</p> <p>Monica brings her legal knowledge and experience to her current role as a legal assessor for the Fitness to Practise committee of the Nursing and Midwifery Council where she is responsible for advising on procedure and the law.</p> <p>In 2015 she was appointed as one of the first cohorts of independent legal Chairs of the Police Misconduct committee for East England. This role involved making preliminary decisions and chairing cases involving a wide range of allegations of police misconduct.</p>
Mrs Johanna Higgins	<p>Johanna Higgins is currently a Northern Ireland Commissioner for the Criminal Cases Review Commission, a panel member for the Centre for Effective Dispute Resolution, and a panel member for the Civil Legal Services Appeal Panel, Northern Ireland.</p> <p>Johanna is a barrister of 27 years call and has worked as a senior public prosecutor in Northern Ireland. She has extensive experience of criminal casework, criminal appeals, judicial review, historic cases, adjudication and community care law.</p>
Sir Stephen Irwin	<p>Sir Stephen Irwin was appointed Lord Justice of Appeal in 2016 and acted as the supervising justice for extradition and national security cases until his retirement in October 2020. He is a member of the Privy Council and continues to sit part-time as a deputy Lord Justice of Appeal.</p> <p>Stephen was a High Court judge from 2006 to 2016. Between 2013 and 2016 he was Chairman of the Special Immigration Appeals Commission (SIAC) and from 2011 to 2018 he was Chairman of the Judicial Security Committee responsible for judges' safety. He spent seven years as a tutor on the Judicial College leadership course.</p> <p>Prior to his judicial career Stephen had extensive experience as a barrister, was appointed Queen's Counsel in 1997, and in 2004 took on the high-profile role of Chairman of the Bar for England and Wales.</p>

<p>Professor Clare McGlynn QC (Hons)</p>	<p>Clare McGlynn is a Professor of Law at Durham University, with particular expertise in criminal law. A qualified solicitor, she was appointed QC (Hon) in 2020 in recognition of the influence of her research on law and policy reform, particularly image-based sexual abuse and extreme pornography.</p> <p>Clare was a member of Durham University's Sexual Violence Taskforce and undertakes sexual violence and misconduct investigations within the university, as well as supporting other institutions regarding their sexual misconduct policies. She also has experience of adjudicating claims of bullying and harassment.</p> <p>Clare has held several leadership roles at Durham including as Deputy Head (Research) of the Faculty of Social Sciences and Health, Director of the ESRC Impact Acceleration Fund and member of its governing body, the University Council.</p>
<p>Miss Dale Simon</p>	<p>Dale Simon is currently working as a Non-Executive Director at the Parole Board where she is a member of the Management Committee and the Chair of the Standards Committee. Dale also sits as an independent panel member for public appointments for the Ministry of Justice, acts as a lay chair of Fitness to Practice Hearings for the Nursing and Midwifery Council, and is a member of the National Child Safeguarding Practice Review Panel.</p> <p>Dale was an advocate consultant for Phase II of The Young Review with responsibility for liaising with statutory and voluntary organisations, taking forward the recommendations of the Young Review to reduce the disproportionality negative outcomes for young Black Asian and Minority Ethnic and/or Muslim men in the criminal justice system.</p> <p>She is a qualified barrister (currently not practicing) and had an extensive career with the Crown Prosecution Service where she was the Director for Public Accountability and Inclusion and had corporate responsibility for hate crime and violence against women and girls. She also spent three years as Head of the Office for Judicial Complaints handling serious and sensitive judicial investigations.</p> <p>In 2013 Dale was awarded a CBE for services to equality and diversity.</p>
<p>Sir Peter Thornton QC</p>	<p>Sir Peter Thornton is a retired judge. He was a Senior Circuit Judge between 2007 and 2016 sitting at the Central Criminal Court, hearing cases involving murder, terrorism and serious sexual offences. He also sat as an appellate judge in the Court of Appeal (Criminal Division) and in the High Court on inquest appeals.</p> <p>Peter was the first person to hold the post of Chief Coroner of England and Wales, between 2012 and 2016. In that role he led the coroner service into a new era, with reform, modernisation, reduction of delays, extensive programmes of training, revision of draft regulations and new written guidance.</p> <p>Peter has chaired five appeals and disciplinary panels, including misconduct panels for academic staff at University College London. He is currently a Visiting Professor at King's College London and trains judges in the UK and abroad.</p>
<p>Dr Matthew Vickers</p>	<p>Matthew Vickers is currently Chief Ombudsman and Chief Executive of Ombudsman Services, which is the UK's energy and telecommunications ombudsman. He is responsible for procedural and administrative justice,</p>

ensuring that investigations are carried out with empathy and balance and that decisions are consistent and well-reasoned.

Matthew was previously CEO of the Scottish Legal Complaints Commission (SLCC) which is responsible for the investigation of complaints about the legal profession in Scotland. In that role he was responsible for establishing the SLCC's credibility and legitimacy with the public and legal profession.

Matthew has also worked for the Foreign and Commonwealth Office and in various commercial and not-for-profit organisations.