



House of Commons
Committee on Standards

Implications of the Dame Laura Cox report for the House's standards system: Initial proposals

Fifth Report of Session 2017–19

*Report, together with formal minutes
relating to the report*

*Ordered by the House of Commons
to be printed 4 December 2018*

Committee on Standards

The Committee on Standards is appointed by the House of Commons to oversee the work of the Parliamentary Commissioner for Standards; to examine the arrangements proposed by the Commissioner for the compilation, maintenance and accessibility of the Register of Members' Financial Interests and any other registers of interest established by the House; to review from time to time the form and content of those registers; to consider any specific complaints made in relation to the registering or declaring of interests referred to it by the Commissioner; to consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches in the Code of Conduct which have been drawn to the Committee's attention by the Commissioner; and to recommend any modifications to the Code of Conduct as may from time to time appear to be necessary.

Current membership

[Kate Green MP](#) (*Labour, Stretford and Urmston*) (Chair)

[Mrs Tammy Banks](#) (Lay member)

[Mrs Jane Burgess](#) (Lay member)

[Miss Charmaine Burton](#) (Lay member)

[Douglas Chapman MP](#) (Scottish National Party, Dunfermline and West Fife)

[Sir Christopher Chope MP](#) (Conservative, Christchurch)

[Mrs Rita Dexter](#) (Lay member)

[Dr Arun Midha](#) (Lay member)

[Bridget Phillipson MP](#) (Labour, Houghton and Sunderland South)

[Sir Peter Rubin](#) (Lay member)

[John Stevenson MP](#) (Conservative, Carlisle)

[Mr Gary Streeter MP](#) (Conservative, South West Devon)

[Mr Paul Thorogood](#) (Lay member)

Powers

The constitution and powers of the Committee are set out in Standing Order No.149. In particular, the Committee has power to order the attendance of any Member of Parliament before the Committee and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of the Commissioner, be laid before the Committee. The Committee has power to refuse to allow its public proceedings to be broadcast. The Law Officers, if they are Members of Parliament, may attend and take part in the Committee's proceedings, but may not vote.

Publications

Committee reports are published on the Committee's website at www.parliament.uk/standards and in print by Order of the House. Evidence relating to this report is published on the [publications page](#) of the Committee's website.

Committee staff

The current staff of the Committee are Robin James (Clerk), Medha Bhasin (Second Clerk) and Jim Camp (Committee Assistant).

Contacts

All correspondence should be addressed to the Clerk of the Committee on Standards, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 3259; the Committee's email address is standards@parliament.uk.

Contents

| | |
|--|-----------|
| Introduction | 3 |
| The Cox report | 6 |
| Responses to the Cox report | 10 |
| Specific proposals for immediate action | 11 |
| Voting rights for lay members | 11 |
| Independence of the Commissioner | 14 |
| Non-recent cases, the “seven-year rule”, and former Members | 14 |
| The Commissioner and the police | 15 |
| Submitting complaints by email | 16 |
| Conclusion | 17 |
| Conclusions and recommendations | 18 |
| Appendix: Statements by House of Commons Commission following publication of the Cox report | 21 |
| Formal Minutes | 24 |
| List of Reports from the Committee during the current Parliament | 26 |

Introduction

1. On 19 July 2018 the House approved a Behaviour Code for Parliament and an Independent Complaints and Grievance Scheme (ICGS), on the basis of a 'Delivery Report' of a Steering Group chaired by the Leader of the House,¹ and our Report on *Independent Complaints and Grievance Policy: Implementation*.²
2. The Resolution agreed by the House on 19 July noted that Dame Laura Cox QC was conducting an independent inquiry into allegations of bullying and harassment of House of Commons staff, with terms of reference published on 23 April 2018, and called for the planned six-month review of the ICGS to incorporate the findings of Dame Laura's inquiry.³
3. On 25 October 2018 Dame Laura published her report, [The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report](#) (hereafter referred to as the 'Cox report').
4. The response of the House of Commons Commission to the Cox report is set out in detail below.⁴ The Commission stated that:

We have a statutory responsibility for the employment of House staff and have too often failed to honour the responsibility to provide a workplace free from bullying and harassment. Dame Laura Cox's report describes an institutional failure to address the problem which has undermined the legitimacy and authority of the House of Commons.

The scale of the problem and depth of hurt caused is beyond dispute.

We are determined to take immediate steps to rectify past mistakes where and when we can and are committed to a robust effort to change the culture which has tolerated such abuses. The staff of the House of Commons are essential to the functioning of democracy. We deeply regret that their diligence has at times been so poorly repaid, and that it has taken so long for us recognise what must be done.⁵

5. The functions of the Committee on Standards and of the House of Commons Commission are different, but with some degree of overlap. The Commission is a statutory body with responsibility for the employment of House of Commons staff; this includes a duty of care and protection of staff. The Committee on Standards is a select committee set up by the House to oversee its standards system and to consider, in certain specified circumstances, complaints against Members. **We, like the Commission, deeply regret what has gone wrong, and commit ourselves to contributing to putting things right.**

1 Delivery Report Independent Complaints and Grievance Policy Programme Team, Independent Complaints and Grievance Scheme [Delivery Report](#), published July 2018

2 Committee on Standards, [Second Report of Session 2017–19, Independent Complaints and Grievance Policy: Implementation](#) (HC 1396), published 13 July 2018

3 Votes and Proceedings, 19 July 2018

4 Paras 30–33 below, and Appendix

5 Extract from House of Commons Commission statement issued on 24 October 2018; the full statement is set out in the Appendix to this Report.

6. Since publication of the Cox report we have held helpful discussions with members of the Commission: its two external members Jane McCall and Dr Rima Makarem; the Leader of the House, Rt Hon Andrea Leadsom MP; and the Clerk of the House, Sir David Natzler KCB. We are grateful to them all for the constructive and candid spirit in which they have engaged with us.

7. **In this Report we summarise key elements of the Cox report relating to our responsibilities and those of the Parliamentary Commissioner for Standards, who is independent from us but with whom we work closely. We then set out some specific proposals which we recommend that the House implement without delay. These are aimed at increasing the powers of the lay members of the Committee on Standards, increasing the independence of the Commissioner, and modernising the complaints process.**

8. **These recommendations are only an interim contribution to tackling the problems which Dame Laura identifies. However, we believe they are steps in the right direction which can be put into effect by the House almost immediately, if it chooses. We emphasise that this can be done without prejudice to any future actions the House may take as part of the process of implementing the Cox report and reforming its standards system.**

9. **We see our own role in this process as being two-fold.**

10. **First, we note that until the full package of Cox report reforms is put in place, the ICGS as agreed on 19 July 2018 remains in place. Complaints under the Scheme are being investigated, and we are advised that there is a possibility that before long we may be asked to consider appeals in ICGS cases. We note Dame Laura's recommendation, accepted by the Commission, that "the process for determining complaints of bullying, harassment or sexual harassment brought by House staff against Members of Parliament [should] be an entirely independent process, in which Members of Parliament will play no part". However, Dame Laura herself notes that much work will have to be done to establish how this "entirely independent process" might operate, with "the practicalities of delivering it [...] carefully considered in conjunction with all the relevant parties".⁶**

11. **Until this work has been done, and decisions taken on the new process, the Committee on Standards will continue to be under a responsibility which the House has placed on it to carry out the appeal function under the ICGS. We propose therefore to continue with contingency planning for dealing with such appeals, including the establishment of new protocols for the mechanics of the process, evidence handling, the protection of witnesses, and rules governing confidentiality and anonymity. We will publish our conclusions on this as soon as possible so as not to introduce unnecessary delay into the consideration of appeals.**

12. **Secondly, we propose to contribute as best we may both to the House's implementation of the Cox report recommendations, and to the planned six-month review of the ICGS. We will report further on these matters, including on the question**

6 Cox report, para 396

of what the appropriate sanctions for bullying and harassment offences should be, who should impose and enforce those sanctions, and whether there should be a formal tariff of sanctions specifically relating to complaints against Members of Parliament.

13. In addition, as and when time-sensitive matters relating to the Cox report's implementation have been dealt with, and the nature of the Committee's future role is known, we propose to undertake a comprehensive review of the *Code of Conduct and Guide to the Rules*, involving public consultation. This would take into account previous work, including that by the previous Commissioner, but would be a wide-ranging and holistic look at the whole system of regulating Members' conduct, including the basic values underpinning the system.

The Cox report

14. This section of our Report contains a summary of the principal conclusions of the Cox report insofar as they relate to our responsibilities. It is not intended to provide commentary on or evaluation of the Cox report.

15. The Cox report makes three “fundamental recommendations”:⁷

- The “Valuing Others Policy” and the “Revised Respect Policy” should both be abandoned as soon as possible, and members of House staff wishing to complain about bullying, harassment or sexual harassment should no longer be required 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.
- 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.

16. Dame Laura notes that there is “much to be welcomed” in the ICGS, including the new Behaviour Code, the new bullying and harassment and sexual harassment policies, the recognition that sexual harassment is a separate and distinct form of harassment, and the independence of the new helplines and investigation services.⁸

17. However, Dame Laura is critical of the decision by the House to approve the new Scheme before knowing the contents of her report:

It is most unfortunate [...] that, having set up this independent inquiry into the problems affecting House staff, the Steering Group did not have its findings before them when new procedures now governing members of House staff were still at a formative stage, and therefore at the optimal time for those procedures to be informed by them [...].⁹

18. Dame Laura makes various recommendations for improving the Scheme, including the following:

- The gender dimension to bullying behaviour should be explicitly acknowledged¹⁰
- Both complainants and respondents should be entitled to legal representation at hearings¹¹
- There should be revised rules on confidentiality¹²

7 Cox report, p 6

8 Cox report, para 289

9 Cox report, para 93

10 Cox report, para 294

11 Cox report, para 295

12 Cox report, paras 296–98

- There should be high-visibility promotion of the new policy throughout Parliament¹³
- Greater clarity is needed as to ownership of the new Scheme and where responsibility lies for its success or failure¹⁴
- Training should be mandatory for Members as well as all staff.¹⁵

19. Dame Laura concludes that “the decision that the new Scheme will apply only to complaints about misconduct occurring since June 2017 is a regrettable one and I strongly recommend that it be urgently reconsidered”.¹⁶ She dismisses any argument that this would be legally problematic as based on a misinterpretation of the advice given by leading counsel to the Steering Group.¹⁷ She sets out detailed principles which should underpin investigations into ‘historical’ allegations, and recommends that:

the House authorities should devise and implement an internal, stand-alone participatory reparation process, to be open and accessible for a fixed period of time, in which these individuals can be heard in confidence, regardless of any inappropriate Non-Disclosure Agreement they may have signed.¹⁸

20. Dame Laura reviews the roles of the Parliamentary Commissioner for Standards and the Committee on Standards in relation to the ICGP. She envisages the Commissioner playing a key part in the new system, but argues that the Committee on Standards should not be involved. She states that:

the practical effect of the [new ICGP] procedures is that the Commissioner’s role is heavily circumscribed by the Committee on Standards, which retains overall control and decision-making power in relation both to the original findings of the independent investigator and the imposition of sanctions on any Member against whom a complaint has been upheld. In that sense, little has changed.¹⁹

21. Dame Laura states that under the ICGP as agreed in July 2018, in some circumstances:

The complainant will be faced with the prospect of the full Committee on Standards being asked by the MP respondent to overturn a decision by an independent sexual misconduct investigator, following a full and specialist assessment of the evidence. I imagine it will be of little comfort to her to know that she can ask for this important matter to be determined by a sub-committee if she feels intimidated by appearing in front of its fourteen Members. The Member can also appeal against the Commissioner’s decision on sanction, including a decision that the Member should apologise to the complainant, attend training or complete a behaviour programme.

13 Cox report, para 299

14 Cox report, para 301

15 Cox report, paras 303–11

16 Cox report, para 315

17 Cox report, para 316–23

18 Cox report, paras 330–49

19 Cox report, para 364

[...] The commendable aims underpinning this Scheme, to ensure that these cases are dealt with appropriately and sensitively, by independent and specialist investigators, and within a reasonable timescale will be seriously frustrated by the prospect of a non-specialist Committee of Members of Parliament and lay members, re-examining the entire process and considering whether to allow the appeals of a fellow Member against both findings of fact and sanction.

This is also too much to ask of the Committee on Standards. Despite the regulatory expertise and diverse backgrounds of the lay members, their specialist experience in these areas will be variable, and the Members will certainly not be trained specialists. Unless they re-run the entire hearing, and try to form their own view of the evidence, they will not sensibly be equipped to assess evidence from witnesses that they will not have seen. The vast majority of decisions on this Committee have in the past been achieved by consensus. In these cases there may be disagreement, but ultimately the lay members have no voting rights and the Members' votes will always carry the day. The prospect of lay members being able to place on record an "indicative vote" will be of little comfort to a complainant who succeeded in full before the independent investigator many months before, but who now sees that decision overturned by a decision taken by Members of Parliament with whom some lay members disagree.²⁰

22. The report notes the 'Final Reflections' of the Committee's first three lay members, published in 2017, which drew attention to "fragmented responsibility for standards issues, pressures over time and problems over prioritising standards, problems in the Committee's processes and the absence of clear and meaningful penalties".²¹ The report states that an issue during the inquiry was "the general reluctance of Members to judge the misconduct of other Members": "many contributors testified to this general unwillingness to condemn a fellow MP".²²

23. On lay members, Dame Laura states that:

I have no doubt that the equal number of lay members on the Committee and the diversity of their backgrounds have added a valuable dimension and a wider external perspective to the Committees' discussions and decision-making.²³

24. However, she considers that:

Despite the contribution of lay members, the reality is that it will be Members of Parliament deciding these matters. And all the difficulties inherent in the process would not be alleviated by the giving of full votes to lay members, which will in any event require primary legislation and which some contributing to this inquiry consider "is unlikely to happen."²⁴

20 Cox report, paras 371–73

21 Cox report, paras 375–77

22 Cox report, paras 378–79

23 Cox report, para 375

24 Cox report, para 380

25. Dame Laura concludes that the new ICGP procedures “risks bringing the Committee into serious disrepute”.²⁵ She states that:

This is not to criticise the important and valuable work of the Committee, or the expertise and commitment of any of its individual members. But the system now in place fails the fundamental tests of independence and impartiality.²⁶

26. She therefore recommends, as one of her three “fundamental recommendations”, that:

Steps should be taken, in consultation with the Parliamentary Commissioner for Standards and others, to consider the most effective way to ensure that the process for determining complaints of bullying, harassment or sexual harassment brought by House staff against Members of Parliament will be an entirely independent process, in which Members of Parliament will play no part.²⁷

27. Dame Laura does not specify exactly how this new process would operate. She observes that “different views have been advanced” on this, and adds that “the principle would have to be accepted before the practicalities of delivering it could be carefully considered in conjunction with all the relevant parties”.²⁸

28. She sets out two options: (1) a system based on the Independent Parliamentary Standards Authority (IPSA) model, with an independent organisation established to determine complaints and a panel of independent decision-makers to decide on sanctions; or (2) reforming the role of the Commissioner so that she herself can exercise appropriate powers, “extricated from the requirement of oversight by the Committee on Standards”. Option (1) would require legislation; option (2) could be implemented by the House itself by amendment to the Standing Orders.²⁹ In the case of Option (2), Dame Laura argues for the appointment of “distinguished senior lawyers or retired judges, highly experienced in handling these sensitive cases” to carry out independent investigations and submit their findings to the Commissioner.³⁰

29. Dame Laura considers, but rejects, an argument that the House’s doctrine of ‘exclusive cognisance’ (its privileged right to regulate its own affairs) would preclude the delegation of sanctioning powers either to the Commissioner or to an independent body.³¹

30. Dame Laura considers that “one of the problems with the current system is the absence of a range of specified sanctions for cases where these complaints are upheld”. She notes that a wider range of sanctions could include “apologies or attendance on training or behaviour programmes, [...] the imposition of fines, disqualification from, or suspension of membership of select committees or membership of overseas delegations, the withdrawal of services by House staff, or the withdrawal of financial support for visits

25 Cox report, para 374

26 Cox report, para 381

27 Cox report, p 6

28 Cox report, para 396

29 Cox report, paras 396–97

30 Cox report, para 401

31 Cox report, paras 383–95

abroad or other activities”, with suspension involving the triggering of recall process being reserved for very serious cases where “someone’s fitness to serve as a Member” was called into question.³²

Responses to the Cox report

31. The House of Commons Commission, with its senior external member Jane McCall in the chair, discussed the Cox report at its meeting on 24 October.

32. The Commission announced after its meeting that it had agreed to the Cox report's three "fundamental recommendations".³³ It added:

It is now up to the House to take forward these recommendations to which we are fully committed. We would expect to see them progressed as quickly as possible.

33. The Commission announced that it had directed the Commons Executive Board "to produce a timely and resourced action plan [for tackling bullying and harassment] in conjunction with a wide range of stakeholders".

34. The Commission added that:

These are first steps. These changes should not be limited to House staff but must encompass the whole parliamentary community. In time, it may become clear that further changes are needed.

35. A general debate on the Cox report was held in the House on 5 November 2018. During this debate the Leader of the House said the findings of the Cox report were "shocking", noted that the House of Commons commission had agreed in full Dame Laura's three key recommendations and had commissioned an action plan from the Executive Board. She added that she not only welcomed Dame Laura's "specific recommendations for urgent change, but her broader conclusions about accountability and leadership in this place". She also said that:

As her hard-hitting report recognises, the House of Commons has fallen woefully short in supporting and protecting its staff. It has failed the people who work here. The fact that some of those in positions of power or authority have bullied, intimidated and harassed those who work alongside them and perpetuated a culture where that behaviour is not only tolerated but comes to be expected by members of staff as "the norm" is outrageous. There is no place for abuse or harassment in Parliament. That applies to everyone, without exception.³⁴

33 See Appendix for full text of recent statements by the Commission.

34 Official Report, 5 November 2018, cols 1277, 1280, 1283

Specific proposals for immediate action

36. The following section of this Report sets out some easily achievable measures which the House can take to enhance the independence of the Committee, by increasing the powers of the lay members of the Committee on Standards, increase the independence of the Parliamentary Commissioner for Standards, and modernise the complaints procedure. We recognise that these will be only the first steps towards reforming the House's standards system.

Voting rights for lay members

37. One of the problems with the House's existing standards system identified by Dame Laura is that the lay members of the Committee on Standards do not possess full voting rights.³⁵ Dame Laura is not the first to raise this.

38. Lay members were first appointed to the Committee in 2012. Initially there were three lay members and 10 elected members. In 2016 the number of lay members was increased and elected members decreased so there is now parity: seven of each. The lay members are recruited on merit through open and fair competition. Together with the elected members, they bring a diversity of thought and background to their work.³⁶

39. The fact that lay members do not have the same full voting rights as elected members has been rightly identified as a major weakness of the system.³⁷ Standing Order No. 149 (5) provides that:

Lay members may take part in proceedings of the committee [...] and may ask questions of witnesses, but lay members may not move any motion or any amendment to any motion or draft report, and may not vote.

In the discussion which follows, when we refer to “full voting rights”, we are referring to voting rights together with the right to move motions and amendments, i.e. to play a full part in the formal proceedings of the Committee on the same basis as elected Members.

40. There are some safeguards for the role of lay members. Any lay member has the right to append an opinion to a committee report.³⁸ In addition, in our July 2018 report we put forward a proposal aimed at strengthening the position of lay members within the Committee, that “before dividing on any motion [...], the Committee should hold an indicative vote of lay and elected members to ascertain the views on the motion of the Committee as a whole and of each member present”. Indicative votes would not be binding on the Committee but would enable each lay member to put her or his vote on the record. We commented that “this mechanism will flush out immediately whether the lay members have a different opinion from the elected members, it will inform elected members of

35 Cox report, paras 373–74

36 Biographical details of the current lay members are set out in an Annex to our July 2018 Report.

37 Committee on Standards, [Second Report of Session 2017–19, Independent Complaints and Grievance Policy: Implementation](#) (HC 1396), paras 28–36

38 Standing Order No. 149 (8)

the lay members' views, and arguably act as a disincentive in those circumstances to proceeding to a formal division".³⁹ This proposal was agreed to by the House on 19 July and is now embodied in Standing Order No. 149 (5A).⁴⁰

41. Dame Laura Cox in her report considers the implications of the present voting system within the Committee, including the innovation of indicative votes.⁴¹

42. In our July 2018 Report we described indicative votes as "only an interim measure". We noted that a majority of members of the Committee wished to see full voting rights given to lay members.

43. However, we also acknowledged that an argument against doing this is the fear 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. We commented that:

there is disagreement about how real this risk would be; some commentators have thought it exaggerated. Nonetheless, there would be a risk, and for that reasons it has been argued that full voting rights should only be conferred if primary legislation was passed to put the privileged status of Committee on Standards proceedings beyond doubt.⁴²

44. We accordingly recommended that the Government bring forward primary legislation to guarantee that the Committee's proceedings would remain protected by parliamentary privilege following the extension of full voting rights to lay members. We have not yet heard from the Government whether they intend to do this. It is important to note that legislation is not required in order to confer voting rights on lay members, but to provide a precautionary safeguard in relation to privilege if those rights were conferred. The advice we have received is that, procedurally speaking, the House has the power, if it chooses, to confer voting rights on lay members simply by means of amendment to its Standing Orders.

45. If lay members were given full voting rights, they would in effect have a majority on the Committee because under standard select committee practice the Chair, who is an elected member, has only a casting vote. Thus the House would put the independent element on the Committee in the driving seat and would, in the words of our earlier report, "put beyond question that the Committee is independent of what might be called the 'parliamentary establishment'".

46. It is clear that the Cox report's assessment of the deficiencies of the current voting arrangements has created a new situation. The Committee of Standards will continue to have a role to play in relation to complaints against Members in two areas: (1) in the short term, until a new system can be created, carrying out the duty placed on it by the House of hearing appeals in ICGS cases; and (2) in relation to complaints of breaches of the

39 *Ibid.*, para 34

40 The Committee's original proposal was that indicative votes should be held "before dividing on any motion not related to a draft Report". This took account of the fact that lay members already had the right to append an opinion to a draft Report. However, the Standing Order change agreed to by the House on 19 July, with the support of the Committee, did not exclude motions related to a draft Report.

41 Cox report, paras 373–74

42 Committee on Standards, [Second Report of Session 2017–19, Independent Complaints and Grievance Policy: Implementation](#) (HC 1396), para 36

Code of Conduct in non-ICGS cases. In carrying out these responsibilities, **we believe, in the light of the Cox report's critique of our current decision-making, that the House needs to take decisive and immediate action to give lay members equal status on the Committee in terms of voting rights. We emphasise that this is without prejudice to any subsequent steps taken by the House to implement its response to the Cox report recommendations.**

47. This does not mean that we consider the arguments previously advanced as to the existence of a risk to the Committee's privileged status are without substance. As we stated in our July 2018 Report, there is a risk; it is a matter of judgement how significant the risk is. We note that Lord Nicholls, former Chair of the Joint Committee on Parliamentary Privilege, in written evidence to the Procedure Committee in 2011, addressing the question of whether a committee which included voting lay members would enjoy the same immunity from court review as one composed entirely of parliamentarians, concluded that:

“I am firmly of the view the answer to this question is yes. The deliberations and decisions of a standards and privileges committee to which lay members have been co-opted are as much an exercise by Parliament of its control over parliamentary affairs as those of a committee comprised entirely of parliamentarians. In both cases the members of the committee, parliamentarian and lay, are appointed by Parliament in exercise of its non-statutory powers. In both cases the functions of the committee are the same. In both cases the source and nature of the committee's powers are the same. In both instances the committee remains a committee of the House. The rationale on which immunity from court process is accorded to a committee composed entirely of parliamentarians is equally apt, no less and no more, to a committee onto which Parliament has chosen to invite non-parliamentarians to serve, whether in a purely advisory capacity or in a voting capacity. The presence and participation of lay members does not change, or detract from, the essential nature of the function being exercised by the committee.”⁴³

48. We do not resile from our previously expressed view that it would be desirable for the Government to bring forward legislation to provide a cast-iron guarantee that free speech in the Committee is protected by parliamentary privilege. We hope the Government will accept our recommendation as this would secure the Committee's position beyond doubt. However, in the fresh circumstances created by the Cox report, we believe that the advantages to the House of conferring voting rights immediately on lay members outweigh what we believe is the relatively small risk of a successful challenge in the courts to the Committee's standing as a properly constituted select committee.

49. We recommend that the House should proceed without delay to amend its Standing Orders to confer full voting rights (and the right to move motions and amendments) on lay members of the Committee. If this is done, the provision for indicative votes can be abolished as no longer needed; but we recommend that the provision for any lay member to append an opinion to a Report be retained, as a reinforcement of the status of lay members within the system.

43 Procedure Committee, Sixth Report of Session 2010–12, *Lay membership of the Committee on Standards and Privileges* (HC 1606), published 7 November 2011, Ev 22–23

Independence of the Commissioner

50. In our July 2018 report we discussed ways of enhancing the independence of the Parliamentary Commission for Standards. We commented as follows:

It will be essential for the public credibility of the new system [the ICGS] for the Commissioner both to be independent and be seen to be independent. Independence has always been a requirement of the post, safeguarded by protections such the requirement in Standing Order No. 150 (13) that the Commissioner may only be dismissed following a resolution of the House. The Committee has never sought to direct the Commissioner's decision-making or to instruct her on whether to begin a particular investigation (save as required by existing protocols).

We are considering ways in which the Commissioner's operational independence may be strengthened. In particular, we are considering proposals set out in the Commissioner's most recent annual report⁴⁴ that two existing provisions which might be held to qualify that independence should be reconsidered. These are the requirements for the Commissioner to consult the Committee before referring a matter to the Metropolitan Police, and before investigating allegations concerning events which occurred more than seven years earlier.⁴⁵

51. We set out the results of our consideration of these matters in the following two sections of this Report.

Non-recent cases, the "seven-year rule", and former Members

52. Paragraph 11 of Chapter 4 of the House's *Guide to the Rules relating to the Conduct of Members* states that:

The Committee [on Standards] has made it clear that it would expect the Commissioner to consult it before exceptionally initiating an inquiry into a former Member or in respect of a matter which goes back more than seven years. The Committee would expect to authorise such inquiries only in exceptional circumstances.⁴⁶

53. In her most recent annual report, the Commissioner argues that:

I believe it is [...] time to review the requirement for the Commissioner to consult the Committee on Standards before beginning inquiries into allegations concerning events which occurred more than seven years earlier. If exceptions to the general time-limit are to be permitted, confidence in the independence of the system might be better served by allowing the

44 Parliamentary Commissioner for Standards, *Annual Report 2017–18* (HC 1256), published 26 June 2018, para 56

45 Committee on Standards, *Second Report of Session 2017–19, Independent Complaints and Grievance System: Implementation* (HC 1396), paras 21–23.

46 House of Commons, *The Code of Conduct, together with The Guide to the Rules relating to the conduct of Members: 2015* (HC 1076)

Commissioner to decide the exceptions. Ultimately, this is a matter for the House itself to determine but I look forward to working with the Committee to review this.⁴⁷

54. The treatment of non-recent allegations raises sensitive issues. Dame Laura addresses these at length in her report and sets out a proposed way forward. One of her three “fundamental recommendations” is that the ICGS should be amended, “so as to ensure that those House employees with complaints involving historical allegations can access the new Scheme”.⁴⁸

55. We do not here express a view on the best way of implementing Dame Laura’s recommendation: that will be a matter for wider discussion within the parliamentary community. However, *we agree with the Commissioner’s view that the requirement for her to consult the Committee before beginning an inquiry relating to events more than seven years earlier is an unacceptable encroachment on her independence. We therefore recommend that this requirement should be abolished and that future editions of the Guide to the Rules should reflect this.*

56. *We believe there should be no exceptions to the general principle that the Committee does not seek to direct the Commissioner’s operational decision-making. For that reason, we also recommend that the requirement for her to consult the Committee before beginning an inquiry into a former Member should also be abolished and that future editions of the Guide to the Rules should reflect this also.*

The Commissioner and the police

57. The Committee, together with the Parliamentary Commissioner for Standards, has a protocol with the Metropolitan Police to ensure that the administration of justice is not impeded by actions taken by the Committee or the Commissioner. This tripartite protocol was most recently renewed in 2013. Our predecessor Committee reported to the House on this at the time.⁴⁹

58. As we mentioned in paragraph 50 above, the Commissioner has raised with us one provision in the protocol which she considers is inappropriate. Paragraph 3.5 of the protocol states that “The Parliamentary Commissioner for Standards and the police will communicate information to each other in confidence”, except in two sets of circumstances, one of which is that “if the Parliamentary Commissioner considers that their investigations have uncovered evidence of possible criminality which should be referred to the police / he will consult with the Committee on Standards”.⁵⁰

59. We agree with the Commissioner’s view that this provision is inappropriate, as infringing on her independence. We cannot conceive of circumstances in which, if she or any future Commissioner were to consider that they had uncovered evidence of possible criminality that ought to be drawn to the attention of the police, it would be proper for the Committee to impede her from doing so.

47 Parliamentary Commissioner for Standards, *Annual Report 2017–18* (HC 1256), published 26 June 2018, para 56

48 Cox report, p 6

49 Committee on Standards, Seventh Report of Session 2013–14, *The House of Commons Code of Conduct and the Criminal Law* (HC 903), published 9 December 2013

50 *Ibid.*, p 9

60. Both we and the Commissioner propose to discuss with the Metropolitan Police possible revisions to the 2013 protocol. These would include a redrafting of paragraph 3.5 to make clear that the Commissioner does not require the permission of the Committee to make a referral of a case to the police. A further option under consideration is the replacement of the present trilateral protocol with two bilateral protocols (Commissioner/police and Committee/police), the better to assert the Commissioner's independence from the Committee.

61. *In the period until a new agreement or agreements with the Metropolitan Police are in place, we wish to make clear that, notwithstanding the provision in paragraph 3.5 of the 2013 protocol, we do not regard the Commissioner as being under any obligation to seek the Committee's approval before referring a case to the police on grounds of suspected criminality.*

Submitting complaints by email

62. A final measure that we believe should be put into effect immediately is not directly connected with the recommendations in the Cox report, but is an overdue piece of modernisation to the House's standards system.

63. At present complaints to the Commissioner that a Member is in breach of the Code of Conduct must be submitted in hard copy before the Commissioner can investigate them, although she is also able to investigate matters which come to her attention but are not the subject of a complaint. Paragraph 6(b) of Chapter 4 of the *Guide to the Rules* requires complaints to "be made in writing and signed", and there is no provision made for submission by email.⁵¹

64. *We recommend abolition of the requirement that complaints against Members should be submitted in hard copy before the Commissioner can investigate them, and that future guidance should make clear that email submission is also perfectly acceptable.* (Since complaints about harassment and bullying will follow a different route before they reach the Commissioner, this change will mainly benefit those who complain direct to the Commissioner about other matters.)

51 House of Commons, *The Code of Conduct, together with The Guide to the Rules relating to the conduct of Members: 2015* (HC 1076)

Conclusion

65. As we have made clear in paragraph 8 above, the specific proposals in this Report represent only a small part of the action the House needs to take in order to make its standards system fit for purpose, following the criticisms in the Cox report. We have much more work to do as a Committee in contributing to this process. However, we believe that those specific proposals are steps in the right direction and can be implemented immediately if the House chooses. ***We recommend that the Government provide an early opportunity for this Report to be debated, and approval sought from the House for our proposals and the associated Standing Order changes.***

Conclusions and recommendations

Introduction

1. We, like the Commission, deeply regret what has gone wrong, and commit ourselves to contributing to putting things right. (Paragraph 5)
2. In this Report we summarise key elements of the Cox report relating to our responsibilities and those of the Parliamentary Commissioner for Standards, who is independent from us but with whom we work closely. We then set out some specific proposals which we recommend that the House implement without delay. These are aimed at increasing the powers of the lay members of the Committee on Standards, increasing the independence of the Commissioner, and modernising the complaints process. (Paragraph 7)
3. These recommendations are only an interim contribution to tackling the problems which Dame Laura identifies. However, we believe they are steps in the right direction which can be put into effect by the House almost immediately, if it chooses. We emphasise that this can be done without prejudice to any future actions the House may take as part of the process of implementing the Cox report and reforming its standards system. (Paragraph 8)
4. We see our own role in this process as being two-fold. (Paragraph 9)
5. First, we note that until the full package of Cox report reforms is put in place, the ICGS as agreed on 19 July 2018 remains in place. Complaints under the Scheme are being investigated, and we are advised that there is a possibility that before long we may be asked to consider appeals in ICGS cases. We note Dame Laura's recommendation, accepted by the Commission, that "the process for determining complaints of bullying, harassment or sexual harassment brought by House staff against Members of Parliament [should] be an entirely independent process, in which Members of Parliament will play no part". However, Dame Laura herself notes that much work will have to be done to establish how this "entirely independent process" might operate, with "the practicalities of delivering it [...] carefully considered in conjunction with all the relevant parties". (Paragraph 10)
6. Until this work has been done, and decisions taken on the new process, the Committee on Standards will continue to be under a responsibility which the House has placed on it to carry out the appeal function under the ICGS. We propose therefore to continue with contingency planning for dealing with such appeals, including the establishment of new protocols for the mechanics of the process, evidence handling, the protection of witnesses, and rules governing confidentiality and anonymity. We will publish our conclusions on this as soon as possible so as not to introduce unnecessary delay into the consideration of appeals. (Paragraph 11)
7. Secondly, we propose to contribute as best we may both to the House's implementation of the Cox report recommendations, and to the planned six-month review of the ICGS. We will report further on these matters, including on the question of what the appropriate sanctions for bullying and harassment offences should be, who

should impose and enforce those sanctions, and whether there should be a formal tariff of sanctions specifically relating to complaints against Members of Parliament. (Paragraph 12)

8. In addition, as and when time-sensitive matters relating to the Cox report's implementation have been dealt with, and the nature of the Committee's future role is known, we propose to undertake a comprehensive review of the Code of Conduct and Guide to the Rules, involving public consultation. This would take into account previous work, including that by the previous Commissioner, but would be a wide-ranging and holistic look at the whole system of regulating Members' conduct, including the basic values underpinning the system. (Paragraph 13)

Voting rights for lay members

9. We believe, in the light of the Cox report's critique of our current decision-making, that the House needs to take decisive and immediate action to give lay members equal status on the Committee in terms of voting rights. We emphasise that this is without prejudice to any subsequent steps taken by the House to implement its response to the Cox report recommendations. (Paragraph 46)
10. *We recommend that the House should proceed without delay to amend its Standing Orders to confer full voting rights (and the right to move motions and amendments) on lay members of the Committee. If this is done, the provision for indicative votes can be abolished as no longer needed; but we recommend that the provision for any lay member to append an opinion to a Report be retained, as a reinforcement of the status of lay members within the system.* (Paragraph 49)

Independence of the Commissioner

11. *We agree with the Commissioner's view that the requirement for her to consult the Committee before beginning an inquiry relating to events more than seven years earlier is an unacceptable encroachment on her independence. We therefore recommend that this requirement should be abolished and that future editions of the Guide to the Rules should reflect this.* (Paragraph 55)
12. *We believe there should be no exceptions to the general principle that the Committee does not seek to direct the Commissioner's operational decision-making. For that reason, we also recommend that the requirement for her to consult the Committee before beginning an inquiry into a former Member should also be abolished and that future editions of the Guide to the Rules should reflect this also.* (Paragraph 56)
13. Both we and the Commissioner propose to discuss with the Metropolitan Police possible revisions to the 2013 protocol. These would include a redrafting of paragraph 3.5 to make clear that the Commissioner does not require the permission of the Committee to make a referral of a case to the police. A further option under consideration is the replacement of the present trilateral protocol with two bilateral protocols (Commissioner/police and Committee/police), the better to assert the Commissioner's independence from the Committee. (Paragraph 60)

14. *In the period until a new agreement or agreements with the Metropolitan Police are in place, we wish to make clear that, notwithstanding the provision in paragraph 3.5 of the 2013 protocol, we do not regard the Commissioner as being under any obligation to seek the Committee's approval before referring a case to the police on grounds of suspected criminality. (Paragraph 61)*

Submitting complaints by email

15. *We recommend abolition of the requirement that complaints against Members should be submitted in hard copy before the Commissioner can investigate them, and that future guidance should make clear that email submission is also perfectly acceptable. (Paragraph 64)*

Conclusion

16. *We recommend that the Government provide an early opportunity for this Report to be debated, and approval sought from the House for our proposals and the associated Standing Order changes. (Paragraph 65)*

Appendix: Statements by House of Commons Commission following publication of the Cox report

Statement issued on Wednesday 24 October 2018

Following the publication of Dame Laura Cox's report on the bullying and harassment of House of Commons staff, a meeting of the House of Commons Commission was convened to discuss the report's recommendations and consider a way forward. The meeting was rescheduled from the original proposed date, on 22 October, to ensure it could be chaired by Jane McCall, the senior external member of the Commission.

We are grateful to all of those who contributed to the report, as well as those who communicated with us directly. All views and contributions have been fully considered. This includes a representation from the Commons Executive Board which called for acceptance of Dame Laura Cox's three fundamental recommendations.

We have a statutory responsibility for the employment of House staff and have too often failed to honour the responsibility to provide a workplace free from bullying and harassment. Dame Laura Cox's report describes an institutional failure to address the problem which has undermined the legitimacy and authority of the House of Commons.

The scale of the problem and depth of hurt caused is beyond dispute.

We are determined to take immediate steps to rectify past mistakes where and when we can and are committed to a robust effort to change the culture which has tolerated such abuses. The staff of the House of Commons are essential to the functioning of democracy. We deeply regret that their diligence has at times been so poorly repaid, and that it has taken so long for us recognise what must be done.

It is time for a change.

We have therefore agreed to the three fundamental recommendations highlighted by Dame Laura on page 6 of her report.

1. We are terminating the Valuing Others Policy, and have suspended operation of the Respect Policy recommending that the House terminate it as soon as possible;
2. We recommend that the House amend the new Independent Complaints and Grievance Scheme to ensure that those House employees with complaints involving historical allegations can access the new Scheme;
3. We recommend that the House 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.

It is now up to the House to take forward these recommendations to which we are fully committed. We would expect to see them progressed as quickly as possible.

Furthermore, we are also committed to a thorough and robust response within the context of our statutory responsibility for the employment of House staff, in order to prevent the future bullying and harassment of and sexual misconduct towards staff. We have directed the Commons Executive Board to produce a timely and resourced action plan in consultation with a wide range of stakeholders. This will be taken forward under the auspices of the external members of the Commission and drawing on such independent and external advice as may be required.

These are first steps. These changes should not be limited to House staff but must encompass the whole Parliamentary community. In time, it may become clear that further changes are needed.

Bullying and harassment have no place in the House of Commons, or in any area of public life. The persistence of this problem has rightly called into question the culture and leadership of the House of Commons. We acknowledge that we have a proactive role to play in improving the culture of the House Service, and therefore are resolved to ensure that Dame Laura Cox's report marks the moment where we commit to swift and lasting change.

Extract from decisions of the Commission at its meeting on Monday 29 October

The Commission agreed to:

- support the implementation of the two principal recommendations which fall to the House to agree to: effective access to the Independent Complaints and Grievance Scheme for those with historical complaints, and determination of complaints without the involvement of MPs.
- work with the Leader of the House to bring forward proposals for the six-month review of the new Scheme.
- work with the Standards Committee and the Parliamentary Commissioner for Standards on next steps. They will be invited to attend the 26 November Commission meeting.
- support the development of an action plan by the Commons Executive Board, under the auspices of the Commission's external members.

Further statement issued on Thursday 1 November

The House of Commons Commission repeated its determination to use its influence to support the three fundamental recommendations highlighted by Dame Laura Cox – as outlined in the Commission's statement of 24 October – and to act on these as soon as possible.

In particular, the Commission agreed not to wait for the six-month review of the Independent Complaints and Grievance Scheme (due to start in January 2019) but to identify a way to give those with historical complaints access to the Scheme, and to provide for determination of complaints without the involvement of MPs. Work has started to

progress with these issues immediately, together with the Leader of the House, and in consultation with the Standards Committee and the Parliamentary Commissioner for Standards.

The Commission also noted that, as directed at the Commission's 24 October meeting, the Commons Executive Board will meet on 2 November to consider the outlines of an action plan – which will be overseen by the Commission's external members. The Commission was also informed that the details of the inquiry into bullying and harassment of Members staff would be announced very shortly.

Formal Minutes

Tuesday 4 December 2018

Members present:

Kate Green, in the Chair

| | |
|------------------|--------------------|
| Tammy Banks | Bridget Phillipson |
| Jane Burgess | Sir Peter Rubin |
| Charmaine Burton | John Stevenson |
| Douglas Chapman | Gary Streeter |
| Rita Dexter | Paul Thorogood |
| Arun Midha | |

Draft Report (*Implications of the Dame Laura Cox report for the House's standard system: Initial proposals*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 45 read and agreed to.

Paragraph 46 read.

Amendment proposed, in line 6, to leave out from “responsibilities,” to the end and add “we believe that the House should give lay members equal status on the Committee in terms of voting rights. All members, both lay and elected, should have a vote. In the event of a tie the Chair would have a casting vote.” – (John Stevenson.)

Question proposed, That the Amendment be made.

The Committee held an indicative vote of lay and elected members to ascertain the views on the Question of the Committee as a whole and of each member present, pursuant to Standing Order No. 149 (5A) (Committee on Standards).

Ayes, 1

Noes, 10

John Stevenson

Tammy Banks

Jane Burgess

Charmaine Burton

Douglas Chapman

Rita Dexter

Arun Midha

Bridget Phillipson

Sir Peter Rubin

Gary Streeter

Paul Thorogood

Amendment, by leave, withdrawn.

Paragraph agreed to.

Paragraphs 47 to 65 read and agreed to.

A paper was appended to the Report.

Resolved, That the Report be the Fifth Report of the Committee to the House.

None of the lay members present wished to submit an opinion on the Report (Standing Order No. 149 (8)).

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134 (Select Committees (reports)).

[The Committee adjourned.]

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number

Session 2017–19

| | | |
|---------------|---|---------|
| First Report | Dame Margaret Hodge | HC 591 |
| Second Report | Independent Complaints and Grievance Policy: Implementation | HC 1396 |
| Third Report | Ian Paisley | HC 1397 |
| Fourth Report | Boris Johnson | HC 1797 |