

## Agenda – Y Pwyllgor Safonau Ymddygiad

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Lleoliad: I gael rhagor o wybodaeth cysylltwch a:  
Ystafell Bwyllgora 5 – Tŷ Hywel Meriel Singleton  
Dyddiad: Dydd Mawrth, 27 Tachwedd Clerc y Pwyllgor  
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### 1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

(09.30)

### 2 Papurau i'w nodi

(09.30–09.35)

#### 2.1 Cod Ymddygiad – Adolygiad: Adroddiad Ymchwiliad Annibynnol y Fonesig

Laura Cox DBE: Bwilio ac Aflonyddu ar Staff Tŷ'r Cyffredin

(Tudalennau 1 – 155)

### 3 Cod Ymddygiad – Adolygiad: y Camau Nesaf

(09.35 – 10.30)

(Tudalennau 156 – 172)

SoC(5)–21–18 Papur 1 – Newidiadau arfaethedig i'r broses gwyno

SoC(5)–21–18 Papur 2 – Codau Ymddygiad Gweinidogol a Seneddol mewn

Deddfwrfeydd eraill



**THE BULLYING AND HARASSMENT OF HOUSE OF COMMONS**

**STAFF**

**INDEPENDENT INQUIRY REPORT**

**DAME LAURA COX DBE**

**15<sup>th</sup> October 2018**

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### **Statement from Dame Laura Cox**

*“We are proud to work in the House of Commons, but when we are abused those who lead us should support us, not abandon us to our fate and cover up the traces. And those who abuse us should be held accountable. Establishing a new complaints and grievance process won’t come close to solving the problems in this place. We need a seismic shift. But the institution is worth fighting for.”*

*Member of House of Commons staff*

These words, spoken by someone employed by the House, reflect the very essence of the views expressed by so many who contributed to this inquiry:

- the sense of pride that members of staff feel in working for the House of Commons;
- the lack of support given to those who have been bullied, harassed or sexually harassed;
- a culture that has actively sought to cover up such abusive conduct;
- a palpable lack of protection for individuals reporting such abuse;
- a lack of accountability for that abuse; and
- the belief that a new complaints process will not begin to solve these problems.

Abusive conduct of this kind is pervasive and no workplace is immune, but the culture in which it has been able to take hold in the House of Commons and the ineffective mechanisms for dealing with it make this a particularly serious case.

The nature and extent of the allegations of bullying, harassment and sexual harassment, made against other members of House staff as well as against some Members of Parliament, are disturbing, and the effects of such misconduct have been exacerbated by the inadequate procedures in place to tackle them. Extensive experience in the field of employment law over several decades, involving many

different public and private sector employers, marks the House out as a stark reminder of how bad things used to be.

Throughout this inquiry I have been struck by the professionalism, care and thoughtfulness of those who contributed. These were not people set on revenge or out to malign either individuals or the reputation of the House itself. Those present or former members of staff who came forward care very deeply that the place regarded as the heart of our democracy is failing to live up to the standards to be expected of any 21<sup>st</sup> century workplace.

And “workplace” is the appropriate term. While some contributors were at pains to point out that the House is a “*unique institution*,” ultimately, it is a place of work. Admittedly it has some unusual features, but it is a place where over 2,000 people are employed and to whom their employers owe a duty of care.

Members of Parliament are elected representatives, but their mandate does not entitle them to bully or harass those who are employed in the House to support and assist them.

Amongst current and former staff alike there is an obvious pride and affection for the House and its status. Working there is, for many, a privilege – whether as a member of House staff or as an elected Member of Parliament - and there is an expectation of loyalty to the institution they serve. But that sense of loyalty has been tested to breaking point by a culture, cascading from the top down, of deference, subservience, acquiescence and silence, in which bullying, harassment and sexual harassment have been able to thrive and have long been tolerated and concealed.

This is not to demonise the entire institution, but unacceptable behaviour by some, whether elected Members or House staff, inflicts damage on everyone and undermines the legitimacy and authority of the House of Commons. Parliament is diminished.

In attempting to deal with these issues to date and in establishing this inquiry, I believe that many people have acted with the best of intentions. And I do not believe that the problems are insurmountable. But these are urgent and serious problems that the House now needs to tackle properly, once and for all.

Underpinning all the recommendations in this report is the need for broad cultural change in the House and the need to restore the trust and confidence of the staff and of the wider public. Delivering fundamental and permanent change will require a focus and a genuine commitment on the part of the leadership of the House. However, the inescapable conclusion from the views expressed during this inquiry is that it will be extremely difficult to build confidence that there will be fundamental change when the levers of change are regarded as part of the change that is needed.

Whoever is ultimately responsible for delivering this change, there has to be, at the outset, an honest and open acknowledgment at senior level of the failings of the past and of the need to rebuild trust and restore the confidence of all those who work for the House.

I would like to express my gratitude to everyone who has contributed to this inquiry. I hope they feel that this report does justice to their contributions. I emphasise that this has been an inquiry into the nature and extent of the problems, not an investigation into individual allegations. Contributions have been made in confidence, in accordance with agreed terms of reference, but the quantity and quality of those contributions provides a firm basis for the findings and recommendations made.

There is now an institutional responsibility to act to restore public confidence in the central institution of our representative democracy. The findings in this report and the recommendations made will, I hope, be of real assistance in that task. My duty, at the end of this independent inquiry, is to lay this report before the House. In doing so, it is now for others to consider its contents and the recommendations made.

For those looking to see if changes are being made over the coming weeks and months, I would suggest that they look for progress as regards the following fundamental recommendations, which merit urgent consideration without waiting for the six month review of the new Independent Complaints and Grievance Scheme, which is due to take place in January 2019:

- 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.

Laura Cox

October 2018

## **A. Introduction and Terms of Reference**

1. The House of Commons Commission is the statutory body responsible for the administration and services of the House of Commons. Chaired by the Speaker, as the Chief Officer and highest authority in the House, it comprises several Members of Parliament, the Clerk of the House as its principal constitutional adviser, the Director General, and two external non-executive directors. The Commission provides the strategic and supervisory governance of the House, but the day to day management of the services provided is the responsibility of the Commons Executive Board, on which sit the Clerk of the House, the Director General and the senior managers heading the various teams and offices in which the staff all work. In all there are around 2,300 members of staff, who work across the House in all its different areas alongside the 650 MPs whom they support.
  
2. As elected representatives Members of Parliament are not employed by anyone, but are generally regarded as individual office holders. They perform important work, for which they receive a salary and expenses, paid by the Independent Parliamentary Standards Authority.
  
3. The House staff are not civil servants but are employed by the House of Commons. They are formally appointed by the Commission, which is responsible for their pay and conditions but delegates to the Board the task of ensuring that staff terms and conditions are consistent with the Commission's statutory duties. The House of Commons Administration Act 1978 provides that those terms and conditions must be kept broadly in line with the Home Civil Service. The Staff Handbook states at Chapter 2, paragraph 1.2 that, "*Parliamentary staff are excluded from some aspects of employment legislation. However, wherever reasonably practicable, the House seeks to reflect the provisions of employment law even in cases where the legislation does not strictly apply.*" The



employment provisions of the Equality Act 2010 apply expressly to staff employed in the House of Commons.

4. The staff of the House also perform important work, and they do so in a wide range of roles providing, with complete impartiality, specialist, executive, administrative and key support services. Their work, professionalism and expertise are essential to the smooth running of every aspect of the functions carried out in the House of Commons. As the House Governance Committee observed, in their report of 17 December 2014, *“The staff of the House are its most important resource.”*
5. That sentiment now sits uneasily with news reports in March 2018 of serious allegations of bullying and sexual harassment being made against some male MPs by members of House staff, almost all of them women, and of a culture in which staff have been unsupported, expected to put up with it and without effective procedures in place to air their complaints. No workplace is immune from pervasive misconduct of this kind and it was perhaps not surprising that such allegations had emerged in the world of politics, where the inherent imbalance of power creates obvious vulnerabilities. The reported allegations have all been denied. Nevertheless, the nature and scale of the reported abuse and of the lack of support were disturbing and a matter of serious concern.
6. On 19 March 2018 the Commission decided that there should be an inquiry into the nature and extent of bullying and harassment, the procedures available to address them and the general culture of the House as a place of work, the “culture” referring to those unspoken norms existing in any organisation, that define behaviours, shape attitudes and direct people’s thoughts and actions.
7. It was agreed that this inquiry should be carried out independently. The tasks of appointing someone to conduct the inquiry and of agreeing

appropriate terms of reference were therefore delegated to the two non-executive members of the Commission. On 23 April I was appointed to conduct this inquiry and asked to lay my report before the House at its conclusion.

8. I bring to this inquiry what I regard as valuable experience, in terms of service as a member of the High Court judiciary, an extensive background in employment and equality law and many years' experience of representing, advising and training both employers and employees on bullying and sexual harassment in the workplace and on the policies, procedures and leadership skills required to address these issues effectively. I have drawn on this experience in considering all the information provided to this inquiry and in making recommendations about what needs to be done.

#### **Terms of Reference**

9. The agreed terms of reference for this inquiry are as follows:

#### **Objectives**

*The objectives of the inquiry are –*

- *to establish the nature and extent of bullying and harassment (including sexual harassment and any systemic behaviours) of past and present House of Commons staff;*
- *to identify any themes and patterns regarding how previous complaints about such behaviour were handled or how complainants were treated, or, if no formal or informal complaint was made, the reasons for this;*
- *to assess previous, existing and any proposed policies and procedures relating to bullying or harassment and to complaints about such behaviour, comparing them to current best practice, with a view to making any recommendations for improvement in the way in which such complaints are handled or will be handled in the future, including the availability of appropriate internal or external support; and*

- *to consider and comment upon the House of Commons as a place of work with regard to ensuring the treatment of staff with dignity and respect and maintaining an open and supportive culture.*

### **Scope and Methodology**

- *The Inquiry will invite past and present House of Commons staff and others with relevant perspectives (including staff representatives) to offer in person or in writing their experiences of perceived bullying and harassment, including sexual harassment.*
- *All contributions will be treated in strict confidence and will not be published or liable to release. Any references to such information in any Report arising from the Inquiry will be anonymised. No individual will be identified or identifiable.*
- *It is not the purpose of the Inquiry to reopen past complaints of bullying or harassment or to investigate new ones against particular individuals. It is hoped that the opportunity offered to House of Commons staff to reflect on the House of Commons as a place of work and to present their experiences to an independent third party in confidence may help them to achieve closure, where appropriate.*
- *No existing route of complaint open to staff will be affected by the Inquiry, and those submitting experiences will be given details of any existing routes which may be pursued, and of available support or counselling services or other pathways for the resolution of such complaints.*
- *The Inquiry will be provided with all necessary resources under the auspices of the two non-executive members of the House of Commons Commission, who will provide any necessary guidance and support as requested by the Inquiry in order to help it achieve its objectives.*
- *The Inquiry will aim to present preliminary findings to the House of Commons before the summer recess, depending on the numbers of people who come forward, and a Final Report as soon as reasonably practicable thereafter.*

### **B. Participation and Patterns**

10. This inquiry has been conducted entirely independently and without any political or parliamentary involvement or influence. I have had contact throughout only with the two non-executive members of the Commission, and only in respect of any necessary administrative matters. In accordance with the terms of reference, current and former members of House staff were invited to provide information to the inquiry in

complete confidence. After the original announcement as to the inquiry and its terms, a personal message was sent out in early May in which I encouraged all staff to participate and explained the arrangements for the inquiry.

11. All the information from those coming forward has been dealt with in strict confidence, in accordance with the terms of reference. Private meetings were held away from the parliamentary estate. I had some independent administrative assistance to assist with arranging those meetings, but that person did not attend them. I have complied with the GDPR provisions in respect of all the data submitted and appropriate privacy notices have been provided.
12. The extent to which it was possible to invite former House staff to participate depended on the accuracy of the contact details retained on the House database. This went back only as far as 2012, but I am assured that everyone who was on the database was contacted. In the event, I also received information from people who had left their employment before 2012, but who had heard about the inquiry from other sources. Those members of House staff who had signed settlement agreements or non-disclosure agreements when they left were also invited to participate and a number did so, on the basis that this was a confidential process.
13. There has been extensive engagement with this inquiry from both current and former members of staff. The reliving of traumatic experiences can be painful and distressing and I am extremely grateful to everyone who came forward and provided such helpful information and observations. The large number of people who wished to contribute and the sheer volume of information they provided was such that the information gathering phase of the inquiry continued until the end of July. It was therefore not possible to present any preliminary findings before the

House rose for the summer recess, as was originally contemplated in the terms of reference.

14. I have received information from over 200 people. A number of those people provided information not only on behalf of themselves but also on behalf of others in the team or office where they are currently employed, and with their knowledge and consent. I also received information from Workplace Equality Networks in Parliament and from trades unions on behalf of identified members.
15. The total number of contributors to this inquiry, including those who gave information and made their views known indirectly in this way, is therefore considerably higher. Only one person chose to provide information anonymously. I should record, in addition, that some staff expressed regret for being unwilling to come forward, either because they found their experiences too upsetting to relate and relive, or because they were afraid of losing their job, despite the assurance as to confidentiality.
16. The information came from present or former staff members working at all levels and pay grades, from the most senior members of staff at SCS grades, through grades A to E and the catering grades. And it came from staff employed across the House in all the different teams and offices, including:
  - Chamber and Committees;
  - Communications;
  - Corporate Services;
  - Governance;
  - In-House Services;
  - Participation;
  - Private Offices;

- Research and Information;
  - Strategic Estates; and
  - The bicameral offices for Parliamentary Security and the Parliamentary Digital Service.
17. The contributions therefore contained information from across the House, from staff working at all levels, as to the prevailing culture in the House, incidents of alleged bullying, harassment and sexual harassment, the availability of support for those subjected to such treatment, the adequacy of complaints procedures and views about necessary changes.
  18. The contributions described allegations not only against some MPs, but also against members of House staff. None of those allegations was based on hearsay. The accounts given related to incidents in which the contributors had themselves been directly involved, or that they had witnessed happening to others. Many of those coming forward have worked, or had formerly worked in the House for many years.
  19. The majority of the contributors, approximately 68%, were women. And 70% of the contributions came from staff currently employed in the House. The majority of the former members of staff who came forward had left the House within the last 10 years. Some information came from staff who had either previously worked for, or had left the House to go and work for large public or private sector organisations, and who were able to contrast the problems existing in the House with their experience of those other organisations.
  20. A small number of individuals were external contributors. They included people who had witnessed incidents of bullying and harassment, or who had experience of working with Members of Parliament or House staff over a sustained period and were able to offer some useful insight, both as to particular events and as to the general culture. One current

Member of Parliament and one former Member independently contacted the inquiry, and each attended a meeting and provided helpful information. I should emphasise that neither of them was involved in any of the allegations featuring in the news reports.

21. Throughout this report I have referred variously to ‘the senior administration’, ‘senior managers’, ‘senior levels of management’, ‘the House authorities,’ the House leadership’ or other similar phrases. In doing so, unless the context indicates otherwise, I am referring collectively to all the offices of leadership within the House including, predominantly:
  - the Clerk of the House;
  - the Director General;
  - the Executive Board;
  - the House of Commons Commission;
  - the Speaker’s Office.
  
22. I also received some helpful information on legal issues relevant to the terms of reference from the Equality and Human Rights Commission (EHRC) and from the Centre for Women’s Justice (CWJ). The CWJ contributed information on behalf of a group of women still employed or formerly employed by the House, each of whom had already provided information individually and independently. Neither the EHRC nor the CWJ were aware of any of the confidential information provided to the inquiry by those who participated.
  
23. I emphasise that this has been an inquiry, not an investigation. The allegations of bullying and sexual harassment featuring in the news reports have been denied. Disputed allegations require due process and a fair hearing for both sides in order to determine the facts, and I am not in a position in this inquiry to determine or re-open any individual complaints. Nevertheless, the number and wide range of the

contributions have yielded a great deal of information and some invaluable insights. They also revealed some clear patterns and themes. They provide, in my view, a sound basis for the findings and recommendations set out in this report.

24. Throughout this report, I have included a number of direct quotes from contributors, which are italicised. These put into words, better than my own, the depth of feeling and the genuine concerns of those employed by the House. Each quote is generally representative of views that many others also expressed.
25. In accordance with the assurance as to confidentiality, there is nothing in this report which could lead directly or indirectly to the identification of any contributor. The giving of information in confidence in this way is sometimes criticised as providing a platform for malevolence, or for revenge attacks by disgruntled employees. The compelling counter-argument however, as is now well understood, is that people who have been bullied or sexually harassed, or who have seen this happen to others, are generally reluctant to come forward and report it. People with genuine concerns or complaints, or who fear for their jobs or for their well-being, may not speak out unless they can speak in confidence. And we should also bear in mind that employees who are not operating at the senior levels of an organisation see things rather differently in this respect from those who are.
26. That does not mean that I did not examine all the information provided with appropriate rigour. Forensic experience over many years facilitates the assessment of accounts untested by cross-examination in an adversarial system. However, a feature of this inquiry has been the remarkable consistency in discrete accounts, in relation both to particular incidents and to more general themes and views. And in a number of cases I was shown contemporaneous documentation including, for



example, email threads, diary entries or exit interviews, which tended to support accounts concerning specific incidents.

27. Overall, the information given to the inquiry has been detailed, thoughtful and measured. There was a general lack of exaggeration and a willingness to acknowledge personal failings on occasion, which indicated some careful reflection. In general terms everyone who attended meetings spoke freely and frankly. People welcomed the opportunity to speak about matters and were fully cooperative. Much of what they had to say reflected the pride that members of staff have in working for the House and in the service they provide, but that generally served to emphasise the level of resentment and unhappiness that only now have they felt able to air what are clearly long-standing and serious concerns.
  
28. There were just six individuals who described entirely positive experiences in their time as members of House staff, and who were anxious that *“the whole institution should not be demonised”* as a result of the reported allegations. That is clearly right and I am sure that there are many others who hold that view. As might be expected, I heard glowing tributes paid to the skills and leadership abilities of some line managers, formerly or presently employed in the House. And individual contributors readily acknowledged that the vast majority of Members of Parliament are, and have in the past been hard-working, conscientious, courteous and entirely respectful of the House staff. I heard glowing tributes paid to some of them too.
  
29. Yet, as the Nolan Committee observed in their report in 1995, not only must Members of Parliament maintain the highest standards of conduct, but *“it is essential for public confidence that they should be seen to do so.”* Misconduct by some inflicts serious damage on the dignity and standing of the House as a whole and contributes to the undermining of its legitimacy and authority. Bullying, sexual harassment and the abuse of

power by some MPs damages the reputation of them all. And the bullying or harassment of staff by some managers, or their failure to prevent or deal with such misconduct by others, can rapidly become contagious if the culture of the organisation allows it to go unchecked.

30. The unhappy fact is that the overwhelming majority of contributions, from staff working across the House, reveal widespread, enduring and profound disaffection with a culture that is as embedded as it is shocking. They indicate that bullying, harassment and sexual harassment of members of staff, both by other members of staff and by some MPs, has been known about and tolerated for far too long, despite efforts by some, including recognised trade unions, to persuade the senior administration to take it seriously. Rather than professional, collaborative relationships of mutual respect and an open and supportive atmosphere, such misconduct has been able to thrive over many years, and to become entrenched as part of an excessively hierarchical, 'command and control' and deferential culture, which has no place in any organisation in the 21<sup>st</sup> century.
31. This is defined by a collective ethos at the senior levels of the organisation, which sets the tone for a culture that permits abuse. The acquiescence of senior management, the institutional minimising of complaints, the lack of effective procedures to address them, and the lack of support for those targeted for such treatment has resulted in the stifling of potential, the blighting of careers and the loss of talented and dedicated employees, many of them women. And the information reveals that the problems are continuing. This is not a problem of the past.
32. Many of those providing information regard the culture in the House as essentially unchanged over many years. More worryingly for the House, they regard it as unlikely to change in the future. The optimistic belief

proffered by a small number of contributors, that the problems of bullying and harassment in the House were probably no worse than those in *“the average public or private sector organisation,”* was undermined by those with experience of employment in such organisations. Others saw this belief as a further example of the high degree of *“denial and complacency”* said to exist at the most senior levels of management. And many people considered that Parliament should be leading the way, irrespective of what happens in other organisations. Many expressed frustration with what are seen as repeated failings at the most senior levels of the House to commit to tackling these issues and to take action, rather than merely to promise change, produce *“tick-box”* policies and then just allow everything to return to normal.

33. Some attributed these failings to a lack of understanding of the importance and the impact of bullying and harassment, on the part of some of those in senior management who have never worked anywhere else, and who have continued to function while *“20<sup>th</sup> century employment rights and our changing society have passed by unnoticed.”* Whatever the reasons, however, one person summarised the views of many in observing that, *“in senior management you have people who don’t want to rock the boat, people who want to tell you their own perspectives about being previously bullied themselves, as if that’s supposed to make you feel better, and people who will write high level papers on the issue and pontificate about zero tolerance and unacceptable behaviour, but none of them will actually tackle it personally at local level.”* For some members of staff there is a genuine desire for something positive to come out of all this, but others regard this inquiry with a sense of resignation and world weariness, and as unlikely to effect any real change. The House is undoubtedly presented with a serious challenge.
34. I start by describing the context for this inquiry, including events leading up to it and the further developments since it began. I do so because

they are highly relevant to the House of Commons as a place of work, the general culture that has been described by those contributing and the recommendations I make for change.

### **C. Context and Culture**

#### **The House of Commons as a Place of Work**

35. There had been earlier news reports appearing in October 2017, which referred to allegations of bullying and harassment against some MPs, made not by House staff but by members of staff directly employed by MPs at Westminster. Once again most of the complainants were women. The Independent Parliamentary Standards Authority is responsible administratively for paying the salaries of such staff, the costs being paid through each MP's staffing expenditure budget, but each MP is the official employer of any staff engaged to assist them with their parliamentary duties.
36. Allegations and denials of misconduct filled the airwaves for a few days. However, what was not in dispute, and what emerged as perhaps the most troubling and surprising aspect of these reports, was the fact that there was no responsible HR department and no policy or complaints process in place, to which any of these directly employed members of staff could have recourse if they were bullied or sexually harassed by the MP for whom they worked. Further, the Code of Conduct for Members of Parliament was silent on the specifics of this type of misconduct.
37. Another element emerged. The people making these allegations spoke of their profound fear of complaining about such abuse, irrespective of any procedures that might be put in place. This fear of being disbelieved, of losing their job, of being unsupported, isolated and ostracised, and of struggling to find work again after being branded a "troublemaker" all

compounded the original allegations of abuse. And this “culture of fear” has found echoes in many of the contributions to this inquiry from the House staff.

38. These original reports, and calls for a complaints procedure that was credible, enforceable, accessible, transparent and independent, were met by strong statements in the House as to “*zero tolerance*” of bullying and harassment, and as to the need to ensure that everyone who worked in the House was treated with respect and dignity, and that there were proper complaints procedures in place together with effective support mechanisms for complainants.
39. Speaking in the House on 30 October 2017, the Leader identified an “*urgent issue*” needing to be addressed, and observed that “*...the public expect MPs to display the highest standards.*” On 14 November a cross-party, bicameral Working Group, chaired by the Leader, was convened by the Prime Minister to establish “*a new independent complaints and grievance procedure.*” Some interim measures were announced relating to the provision of HR advice and support for staff who requested it.
40. Over the following three months, as set out in their report, the Working Group received information from “*parliamentary officials and employees, MPs, Peers, staff of MPs and Peers, parliamentary bodies, unions, academics, experts on sexual violence and lawyers.*” In addition, a short survey was commissioned, which was open to “*a wide range of people working in or with Parliament.*” This survey, together with the surveys of MPs’ and Peers’ staff and the other information before the Group, revealed that the scale of the problem was significant. The Group arrived at the shocking conclusion that “*...bullying, harassment and sexual harassment have been a feature in the lives of many who work in or with Parliament.*”

41. The Group also acknowledged the *“well-documented risk of under-reporting by those experiencing sexual or other forms of harassment or bullying,”* and referred to the lack of confidence among staff that any complaint *“would be dealt with satisfactorily.”* The Group emphasised the need for appropriate support to be provided to all those involved in the new complaints system, and for confidentiality to be maintained. They concluded that *“a change in workplace culture is both urgent and essential.”*
  
42. While the impetus for this work was the bullying and harassment alleged by staff employed directly by MPs, the Working Group clearly became aware of similar problems affecting staff employed by the House of Commons. The view of the Group was that the new complaints scheme to be devised should eventually apply to everyone who worked in the House, thus including all members of the House staff. However, whereas staff employed directly by MPs had no complaints procedure at all available to them at that stage, the Group understood that if House staff wished to complain about being bullied or harassed by an MP they were able to use the *“Respect Policy”* currently in force as part of their terms and conditions of employment. And for complaints of bullying or harassment in internal staff relations there was a separate policy available, known as the *“Valuing Others Policy.”* As regards the Respect Policy, the Group’s understanding at the time was apparently that the Policy was working well and that the House staff were satisfied with it.
  
43. The information provided to this inquiry shows that this was certainly not the case. Both the Valuing Others Policy and the Respect Policy, which was first introduced in 2011 and then revised in 2014, have been the subject of extensive criticism, as will appear later on in this report. So far as the Respect Policy is concerned, it became clear at an early stage in this inquiry that the vast majority of those coming forward had no confidence in it whatsoever, and that this had been the position for a

number of years. Only three people considered that it “*struck a good balance,*” or that it was “*essentially sound.*” Nobody else has advocated either its effectiveness or its retention. And in my view it is a wholly ineffective policy, for reasons which will appear later on. In fact, the policy does not specifically address sexual harassment. And for those who described being bullied the general feeling has been that, “*to invoke the Respect Policy was viewed as a symptom that you were weak and unable to deal with MPs. It would have been career suicide.*” For people subjected to serious or sustained bullying the Policy is considered “*utterly hopeless*” and “*dead in the water,*” and staff have been choosing not to use it to raise complaints. There was candid acceptance by some senior members of staff that “*Respect 2014 was doomed from the start*” or was “*tainted beyond saving.....a fatally damaged brand*” and that they had known this for some time.

44. Yet in February this year the Working Group took the view that “*The Respect Policy offers a basis on which an improved and expanded complaints and grievance policy can be built, to address inappropriate behaviours and bullying and harassment for all concerned.*” It was acknowledged that the omission of sexual harassment from its terms required urgent correction. But the decision at this stage was that, since further consultation with the recognised trade unions would be needed to amend the Respect Policy and to enable House staff to be covered by the new scheme, the Respect Policy was to remain in force for the use of House staff, pending their eventual assimilation into the new complaints scheme. As will also appear later on, defects in the Respect Policy have unfortunately been replicated in the new Complaints Scheme published in July this year.
45. The Group’s agreed report and recommendations were published on 8 February 2018. The Leader presented them to the House on 28 February.

46. They recommended that there should be: (1) a new Behaviour Code covering bullying and harassment and sexual harassment, that applied “*to all persons working for or with Parliament, or who are lawfully on the parliamentary estate;*” (2) an independent complaints and grievance scheme to underpin the Code, with associated policies, appropriate sanctions and the contractual and procurement arrangements necessary for delivering the scheme; (3) particular procedures to deal with reports of sexual harassment; and (4) a system of training to support the Code. There were recommendations too for an HR support service for staff employed directly by Members of Parliament or jointly by political parties, to be delivered by a third party provider, and for a handbook to be available for these members of staff; and for the identification of any necessary amendments to Standing Orders and to the Code of Conduct for Members.
47. During the debate in the House on 28 February there was frank acceptance by some MPs that the culture of an organisation was the responsibility of its leaders, that there had been “*a failure of our own governance*” and that “*a culture of tolerance towards bullying and harassment had become embedded and left substantially unchallenged until now.*” There were repeated references to the need for Parliament to lead the way and to set the example in relation to ensuring dignity at work for everyone. The need for there to be public confidence in the standards imposed, together with “*rigorous implementation*” and “*rigorous monitoring*” was repeatedly emphasised, as was the need for MPs to be offered appropriate training on these issues and to be persuaded to attend it. Some noted that those who were most resistant to such training were often those who most needed it.
48. At the conclusion of the debate the House approved and endorsed all the recommendations and asked the Commission to authorise House officials to undertake the work necessary to implement them, reporting regularly



to the Steering Group (comprising most of the members of the original Working Group). The Steering Group decided that all the necessary work should be completed urgently, with a view to the new Code, policies and complaints scheme all being presented to the House for approval and adoption before the House rose for the summer recess in July.

49. In welcoming the Working Group's report in his published letter to the Leader of 27 February, the Chairman of the Committee on Standards sounded a note of caution in these terms, "*....The standards system has evolved as a series of reactive measures, the new arrangements will likely work alongside existing systems, and it will be important that care is taken to address overall coherence. It should be a priority that the new aspects generate confidence that complaints will be dealt with fairly and impartially.*"
50. The reference to "reactive" measures reflects the fact that measures to address misconduct by MPs have been implemented ad hoc over the years, usually by way of response to discrete crises that enveloped Parliament for a time and resulted in calls for change. In recent years the "cash for questions affair" in the mid-1990s, led to the formation of the Nolan Committee to review standards in public life and the arrival of the Nolan principles of conduct for those holding public office. The subsequent "Parliamentary expenses affair" in 2008/9 led, ultimately, to legislation establishing the Independent Parliamentary Standards Authority as the wholly independent body now responsible for administering MPs' pay and expenses.
51. This reactive approach seems also to have been adopted in relation to staff issues in the House. The Respect Policy, in both its original 2011 and revised 2014 forms, was itself a reactive measure, introduced to deal with growing discontent about the bullying of staff by some MPs and the way in which complaints and complainants had been dealt with.

52. This cycle of repeatedly reacting to crises only after they have developed into crises, and sometimes only after unwelcome publicity, is a perilous approach to adopt for any organisation, but it is completely hopeless for a place of work. And the House of Commons, for all its unusual features, is ultimately a place of work for everyone, including MPs, their staff, and all the House staff appointed by the Commission.
53. The problems of bullying, harassment and sexual harassment in the workplace have been well documented and well understood for decades. The law reports bear testimony to the development of the jurisprudence in these areas, much of it the result of legislation by Parliament, the irony of which was not lost on many contributors to this inquiry. At common law a duty of care is owed to members of staff by those who employ them, to ensure their safety and dignity at work, and most employers have long had policies, procedures and training programmes in place to tackle this kind of behaviour.
54. Leaving aside the level of dissatisfaction with the Respect Policy, it is frankly astonishing that there was no formal or transparent mechanism in place to deal with complaints of bullying and harassment of House staff by MPs until 2011, and that there was nothing at all in relation to sexual harassment, even after revision in 2014. Even the Valuing Others Policy, governing the conduct of staff relations, was apparently introduced only in 2007. And in terms of effectively tackling the problems, neither policy is up to the task for a number of reasons, as will appear. The regrettable result is that over many years the procedures in place to prevent the bullying and harassment of staff, and to deal with it effectively if it occurs, have been both inadequate and ineffective.
55. Some regard this state of affairs as being due to *“a general lack of competence and understanding of the problem or of the need to do anything about it at the most senior levels,”* or to *“the glacial pace of any*

*changes in the House, and a devotion to process and language rather than to effectiveness.”* However, expert advice and assistance regarding bullying and harassment in the workplace has been readily available for many years now and the duty of care owed to staff should have prompted much earlier action. The vast majority of people coming forward lay the blame for this failure squarely on the culture that has long been in place in the House and that has governed every aspect of the work carried out there. The description of the House as an institution whose *“structure and leadership prevent the active resolution of such problems”*, or as having a *“working culture that is out of step with other working cultures and with where society is,”* and with a *“structure of the senior staff that is very dated – there is an aloofness”* reflect the general trend of the contributions.

56. Bullying, harassment and sexual harassment are insidious and pervasive. Misconduct of this kind, whether by Members of Parliament or House staff, needs vigilance and constant attention. Ensuring the safety and dignity of all those employed by the House, at every level and in every area, requires a pro-active and coherent approach. It requires a fully resourced, clearly visible, regularly monitored and updated programme of action, with detailed standards of behaviour and effective procedures aimed at preventing bullying and harassment in the first place and, if appropriate, nipping it in the bud when it occurs, and certainly before it deteriorates and becomes corrosive.
57. If there is a formal complaint, independent investigations must be carried out promptly and fairly, by people with specialist expertise, with a range of effective sanctions available for cases where the complaint is upheld. A pro-active approach requires easily accessible, reliable and confidential support mechanisms for both the complainant and the alleged perpetrator, right from the start and throughout any investigative process. And it requires regular, comprehensive and intensive training

programmes for everyone in the workplace, including focused leadership and management training, to ensure full understanding of and adherence to the standards and procedures in place. More than anything else, and essential to securing the trust and confidence of everyone concerned, a pro-active approach of this kind needs total, genuine and constant commitment to it at the very top of the organisation.

58. The information provided to this inquiry leads inexorably to the conclusion that there has been an institutional failure over many years to understand the need for such action and to commit to it, and a collective blindness to the developing seriousness of the situation. Putting it right will require a substantial investment of time, resources and personnel. The burden on the House to take effective action to turn this around is a heavy one, and the first step towards discharging it is a willingness to acknowledge the scale of the problem.
59. These institutional failings are symptomatic of the general culture that has long existed in the House, and that has led to the present inquiry. It is a culture in which bullying and sexual harassment can thrive. As one contributor expressed it, reflecting the views of many others, “...*in relation to bullying and harassment, the culture of the senior administration is generally to bury their heads in the sand, to hope that the problem goes away, to seek to ensure that there is the minimum of disruption to the business of the House, to cover backs, to cover up and to conceal problem behaviour, as necessary, to protect the reputation of the House rather than the safety of the individual, and to move the problem on elsewhere rather than tackle it head on. Gradually and inexorably more and more members of staff become disaffected. And because they are unsupported, bullying and harassment becomes normalised. A bubble of anger and discontent builds and then eventually bursts.*”

60. In relation to staff employed by the House, that bubble burst in March 2018, when the further news reports appeared of allegations of bullying and sexual harassment by some MPs, over many years, and of a culture of fear of reporting or complaining about it due to a lack of support from senior managers and a lack of faith in the procedures available. This time, however, the allegations came from female members of the House staff, a number of whom held or had previously held senior and responsible positions.
61. Many of those coming forward to this inquiry have stated that the media were in fact only reporting what people already knew had been going on for years. And plainly the warning signs had been there for some time. Just over three years earlier, in late 2014, the Governance Committee had noted in their report that the governance arrangements for the House had developed over time, often in response to particular issues or events, and that this had resulted in the complexities inherent in the House being *“compounded by layers of interventions which have built on and adapted what went before rather than rationalising or restructuring it.”* There had been three separate management reviews of the House since 1978. Governance and structural changes recommended by the Committee in 2014 have since been put into effect, including the welcome appointment of non-executive directors to the Commission, but the Committee had also emphasised in their report the need for the changes to the governance of the House to be underpinned by a change to the organisational culture.
62. This necessary cultural change had a number of aspects, many of which have also featured in the information given to this Inquiry, suggesting that little has in fact changed culturally either before or since 2014. They include problems caused by custom and deference, the hierarchical, siloed and inflexible nature of the House Service, a perceived *“gradist culture”* and a *“culture of aloofness”*; a general unwillingness to challenge

things robustly; a preference for consensus building accompanied by a clear lack of accountability; the general absence of an open and more collegiate working culture; a tension between the traditional approach of the “*guardians of the procedural*” and those seeking to introduce a more “*corporate management culture*”; and alongside this, a tension between the customer service approach now advocated (meeting the needs and wants of individuals and groups) and stewardship of the institution (protection of the wider good).

63. Diversity also plays an important role in all this. The Governance Committee noted that the House had “*struggled to make significant progress in respect of diversity*” at both Member and staff level and that, despite some progress in recent years, there was “*much more to do.*” In her report “*The Good Parliament*” in 2016, Professor Sarah Childs noted that the hierarchy of the institution remained “*disproportionately white, male and elite,*” and she recommended a number of steps to be taken as a blueprint for a more representative and inclusive House of Commons. There is clearly a great deal of good work being done in the House in terms of trying to improve diversity generally but still, in 2018, there is much more to do.
  
64. The benefits of embedding diversity and inclusion in the workplace are well-documented and are considerable, not least in ensuring that people are valued and treated with respect, leading to a better motivated workforce and a decrease in incidents of bullying and harassment generally. In terms of gender, although the disparity in the numbers of men and women working in the House is not significant, men are disproportionately represented on the Commission and the Executive Board and there are significantly fewer women working at the SCS grades. The view expressed by many was that “*management remains disproportionately influenced by a small number of individuals drawn from a limited number of public schools and the Oxbridge universities.*”

*The organisation of the institution remains traditionally hierarchical, with significant power held by MPs and by senior Clerks to the detriment of the lower grades and those employed outside of the Clerks' Department.... There is a calculated aloofness and a kind of sniffiness at anything external, which is part of the template for sustaining the institution and concealing its problems."*

65. In 2014 the Governance Committee concluded that there was a requirement *"...to move to an environment in which clarity and openness, in terms of decision-making and accountability, are the key elements."* Significantly, in the course of their work, they had received written submissions from House staff and held evidence sessions with over sixty staff members, offering them the option of anonymised submission, and thus providing a rare opportunity for staff to speak about the House as a workplace. While the focus then was obviously reform to the governance of the House, the Committee had noted the evidence of *"a lack of accountability and a tendency to pass the buck"* and they made the following observation: *"No system in which officials are encouraged to take responsibility and to be accountable for decisions delegated to them can work, if accountability becomes synonymous with blame. In our discussions with staff, we were told about some examples of disrespectful behaviour by a few Members. In the summer all parts of the House agreed to a new Respect policy covering both sides of the Member/staff relationship. We welcome this but policies alone do not solve cultural problems."*
66. Consideration of governance and structural arrangements in the House is well beyond the terms of reference for this inquiry. I have received a mix of views as to the success or otherwise of the new arrangements, including working relationships between members of the senior administration, the extent to which power is still retained by *"the old guard,"* the *"spans and layers of management"* exercise, said by some not

to be delivering a smaller group of better managers, and how these various factors may be said to be contributing to the current problems. Some suggest, for example, that *“the current corporate and customer service agenda”* has led to *“an increased and unhelpful level of subservience to MPs,”* and has led away from a public service ethos to *“an obsessive, pseudo-corporate, target-driven management style, where there is little room for humanity or empathy.”* Others believe that this agenda and the new arrangements have yet to be fully understood, implemented and bedded down before they can work successfully.

67. I express no view on these matters, but structural and governance arrangements have changed several times over the years, while the organisational culture has apparently remained firmly in place. Governance and structural arrangements alone do not account for the problems described to this inquiry.
  
68. The unique dynamic arising for consideration in this inquiry is the relationship between House staff and elected Members of Parliament. At their core bullying and sexual harassment are about power inequalities, which enable one person to exploit another. The mix of employer/staff relationships and political power structures in the House create an environment which requires firm handling and prompt action if staff are to be protected from abuse and supported when it occurs. Managing workload and political tensions in an adversarial environment can create obvious pressures and conflicts, but that does not excuse unacceptable behaviour of the kind described to this inquiry. At senior management level, the culture of tolerance towards bullying and harassment by some Members, and the failure to tackle it has influenced both the substance and implementation of the Respect Policy, in which many members of staff have no confidence.



69. For Members, the very individual nature of their role inhibits collective action to tackle misconduct of the kind alleged against some of their number. Once elected, it is essentially for each Member to decide how best to carry out their role and traditionally there has not been a great deal of information or advice available as to how to proceed. There will be party advice and guidance for new Members and there is general House guidance too in the form of the Members' Handbook, first provided in 2010 and updated last year. This draws attention to the various "mandatory standards" with which Members must comply, including adherence to the rules of conduct set out in the Members' Code of Conduct.
70. The "cash for questions" affair in the mid-1990s led the then Prime Minister to set up the advisory Committee on Standards in Public Life, which recommended the adoption of a code of conduct. The Code, first agreed by Resolution of the House in 1995 and amended on several occasions since then, applies to Members in all aspects of their public life. Until the arrival of the new Complaints and Grievance Scheme and Behaviour Code in July this year, the duties of Members under the Code have included "*a duty to uphold the law, including the general law against discrimination,*" and a duty to "*act on all occasions in accordance with the public trust placed in them*" and to observe the "*general principles of conduct identified by the Committee on Standards in Public Life...as applying to holders of public office.*"
71. These principles, the "Nolan principles," emphasised amongst others the need for the "Accountability" of Members for their actions and the need for "Leadership and example." But there was otherwise no focus in the Code on the personal behaviour of Members. As we shall see, that has now changed with the additional requirement in the Code that Members should observe the principles set out in the Behaviour Code including respect, understanding others' perspectives and courtesy.

72. In relation to what Members can expect from the House Service and to what is expected in return, the Handbook advised in 2010 that, *“House staff must treat Members with courtesy and respect. They must behave in a way that promotes dignity and respect at work at all times and under all circumstances. House staff are entitled likewise to be treated with dignity, courtesy and respect. Members must not discriminate against, victimise, harass or bully any member of staff.”* Aware of some of the problems that were happening, the guidance continued, *“Members should avoid public criticism of individual members of House staff since members of staff are not able to respond to such criticism publicly...Members can expect House staff to do what is asked of them as long as any request is one which is proper and reasonable within the parameters set by the House of Commons Commission, and that sufficient resources are available to meet it. House staff must refuse to comply with requests which conflict with House policy.”*
73. This guidance was repeated in 2017, with reference made expressly to the Respect Policy in the case of complaints by staff. Regrettably, the information given to this inquiry indicates that this guidance has not been heeded by some MPs, and, to compound the problem, that no effective action was taken when staff complained that they had been subjected to serious abuse.
74. I was provided with a copy of the comprehensive Strategy for the House Service for 2016 – 2021 and the current Corporate Business Plan for 2017/18. These published documents include admirable commitments to *“strengthen diversity and inclusion, leadership and management,”* to *“break down silos,”* to improve *“the level of public perception of the House of Commons”* and to *“create a working environment in which everyone’s contribution is recognised, rewarded and valued.”* There is express recognition that *“Staff of the House, at all levels, are essential to*

*the success of the organisation” and that steps must be taken “to ensure that they feel well trained and well supported.”*

75. However, many a strategy has been confounded by the culture in an institution, that subliminal mix of unspoken behaviours, mindsets, assumptions, motives and social and hierarchical patterns, which permeate every level and shape attitudes in enduring ways. People are effectively hard-wired to respond to it instinctively, and the more embedded it has become the more it is resistant to change. And leadership and culture are inextricably linked. In relation to bullying and harassment, it is not enough to proclaim a zero tolerance standpoint, or to draft strategies and policies recognising the value and importance of members of staff. Unless those in the most senior leadership roles acknowledge and understand a culture’s power and dynamics, and do what is necessary to change it, such strategies are usually doomed.
76. Some contributors, referring to a recent “*Town Hall*” (whole staff) meeting, described what they identified as “*a defensive attitude to the recent publicity*” by the senior administration and as “*a begrudging attitude that they must grasp the nettle and be seen to be doing something.*” These criticisms are directed not at individuals, but at the collective ethos, “*the senior managers are not heartless men, but choices have been made at the highest level to take the path of least resistance.*”
77. The House strategy therefore risks being thwarted without a change in the culture necessary to deliver it. And a similar fate awaits any new policies and procedures put in place to prevent the bullying and harassment of staff and to deal with their complaints. The prospects of restoring the trust and confidence of the staff, of maintaining an open and supportive environment and ensuring that staff are treated with dignity and respect are all dependent on that change.

78. A good example of the problem is to be found in the initial response of the House to the news reports in early March. The reports caused a swell of anger and consternation in some quarters, and I repeat that the specific allegations featured in the reports have all been denied. However, the fact that usually reticent individuals chose to speak to the media about these matters is, in itself, some evidence as to the extent of their distress at the lack of support they had received from the House and their lack of faith in the people and the procedures in place. Many of those contributing to this inquiry spoke of their relief that there had been this publicity. Some hoped that it would lead to significant change, and others described their regret that, in the continuing absence of any internal process in which people had confidence, it had taken exposure of this kind to make people sit up and take notice.
79. However, the initial statement issued by the House in response on 9 March exacerbated an already volatile situation. Rather than openly acknowledging that there were serious problems needing to be addressed, it provided further evidence of the general “*complacency, cover up and denial*” culture that people have described. Suggesting that there was no longer any problem, the news reports of a culture of fear were said to be a “*grotesque exaggeration.*” The House of Commons was said to be a “*a responsible and supportive employer*” that “*does not tolerate bullying or harassment of any kind.*” The welfare of their staff was described as being taken “*extremely seriously*” and they “*strongly reject any claims to the contrary.*” This statement, in both content and tone, was wholly out of kilter with the strength of feeling of many members of staff, and with the findings of the Working Group just a few weeks previously. And the contributions to this inquiry reveal that it has caused enduring anger and distress.
80. On 12 March there was a change of tone. In his personal letter to staff the Clerk of the House admitted that they had “*got it wrong in giving the*

*impression that we were in denial,” saying “There is no doubt in my mind that there are unresolved issues over bullying and harassment, including sexual harassment, which need to be addressed. The public testimony of colleagues confirms that.” While still encouraging staff to use the Respect Policy, he acknowledged that there was discontent with its terms, and that “we must look at our policies to see how we can improve them.” He stated that, “in consultation with you, the TUs and Members, we will revisit and renew the Respect Policy.”*

81. He ended with these words, *“The only ultimately acceptable outcome will be a workplace culture free of bullying and harassment. I am conscious that revised procedures and processes are no substitute for cultural change. I believe that we are moving in the right direction. The majority of working relations between Members and you are harmonious, mutually respectful and professional, and Members have a high regard for the House service. I also recognise that where things have gone wrong in the past they have not always been properly dealt with. They must, and will, be properly addressed in the future.”*
  
82. This clearly expressed determination to change the culture is obviously to be welcomed. However, the level of trust and confidence in the senior House administration to deliver on that promise is now so low that few contributors to this inquiry consider it likely to happen, at least not within the foreseeable future. The level of fatalism and of cynicism among those coming forward was palpable and, for any organisation seeking to change an unhealthy culture and to restore confidence, deeply troubling. Many people said that they were contributing because they felt they should come forward and that they *“owed it to colleagues to do so,”* but that they nevertheless had *“very low expectations.”* People referred to there being *“probably two or three generations to go at the top before anything will really change,”* and felt that they would be *“very surprised if House management allows your report to prompt any real change.”*

83. Despite the conciliatory statements made at senior level, many consider that there is still no genuine understanding that things need to change. Some consider that the senior officials view matters *“too much from the perspective of the effect on their own careers,”* and that they *“still regard the bullying and harassment issue as a distraction from the real work of the House.”* Some consider that the senior administration is viewing this whole issue as *“a local crisis to navigate around and make some limited gestures”* or *“as a temporary blip which is unpleasant and inconvenient, but once the news has moved on, they will be able to get back to the important business and everything will return to normal.”* The failure to grapple with the acknowledged mistakes of the past and look only to the future has been the subject of particular criticism, many people observing that *“unless you deal with the past you don’t move forward.”*
84. The general description is therefore of a corrosive culture, in which bullying and harassment, in particular of women, have become normalised and which cascades down through the structures. This misconduct involves not only relations between MPs and House staff, but between senior and junior House staff and between House staff working at the same level. As some members of staff see that other staff and MPs can bully people and not be held to account, they feel able to bully others in turn, without fear of adverse consequences, or feel that this is the best way to achieve results, and the problem soon becomes embedded. Bullying becomes legitimised and complaining about it is regarded as *“likely to make matters worse,”* or as *“career suicide.”*
85. Many people described receiving strong advice from line managers not to pursue a complaint about being bullied *“if you value your job.”* Some managers indicated that they had struggled in dealing with some of these issues without effective help, and said that *“the House asks a great deal of its managers, but does not do enough to support them.”* Other contributors spoke of deficient management and leadership capabilities

in general needing to be addressed, at line management level and above, and of a general lack of transparency and an *“absence of testing of aptitude for high office”* in selection for senior appointments, unlike the sophisticated recruitment techniques and psychometric tests now commonly used for senior professionals or executives in large organisations *“in the real world.”*

86. On 12 March 2018, during the debate in the House that followed the news reports, the Leader of the House acknowledged that, contrary to the position originally understood by the Working Group, *“...it is clear that the Respect policy may not be sufficient to protect House staff”* and that there were *“unresolved issues over bullying and harassment, including sexual harassment,”* that needed to be addressed. She stated that she would be recommending to the Commission *“a short, independently led inquiry....looking into allegations of systemic bullying of parliamentary staff,”* and that the inquiry *“should hear from past and current staff members about their experiences and help to provide them with closure wherever possible.....and that it should take soundings from current and former House staff on whether the Respect Policy is fit for purpose and whether House staff would be better served by having access to the new independent complaints and grievance policy from day one.”* Staff were told that they would be able to come forward and provide information to this inquiry about these issues entirely in confidence and without fear of repercussions.
87. It is against that background that on 19 March the Commission, chaired by one of the other Members in the absence of the Speaker for this item, decided that this inquiry should be initiated immediately. My appointment was announced on 23 April.
88. The Leader had previously emphasised in the House, on 15 March, that this was to be a systemic inquiry and that the person conducting it would

not be carrying out any investigations into individual cases or reopening past cases. This was initially the subject of some criticism from those coming forward and questions were asked as to why I was not considering individual cases and making findings. But, as I have already stated, this has been an inquiry, not an investigation, which would require a very different approach. My terms of reference contained no provision which could permit any expansion, so as to enable investigations of specific allegations made against particular individuals. Nor did they contain any provision which would have enabled me to expand them unilaterally, or even to ask for them to be expanded. By the conclusion of this inquiry this appeared to be understood, at any rate by the majority of those who participated. And the quantity and quality of the information I have received has enabled me to form a clear view and to make recommendations, in accordance with the agreed terms.

89. However, the timing of events has meant that the work being done by the Steering Group on the new scheme was taking place, completely separately, at the same time as this independent inquiry was proceeding. The need for this inquiry to ensure its independence from any political involvement meant that it would have been entirely wrong for me to become involved in that work while simultaneously engaged in gathering, in confidence, information which was relevant to that work.
90. It was hoped initially that the information gathering phase of this inquiry would have concluded and that I would be able to provide some preliminary findings by the end of June, so that the Steering Group would have had the benefit of them and so that these findings could inform the proposed Code and new Complaints Scheme before they were finalised. The sheer volume of contributions to this Inquiry, however, rendered that timetable unworkable and it became clear that my report would not be ready before the autumn.



91. A number of those providing information to this inquiry expressed the firm hope that the Steering Group would wait until my report was delivered before finalising the proposed Code and new Complaints Scheme. The decision was taken, however, to stick to the timetable and to present the new Scheme to the House for approval before the summer recess.
92. That is in fact what happened. The Steering Group finalised a new Behaviour Code, binding the 'Parliamentary Community,' and a new Independent Complaints and Grievance Scheme, with a Bullying and Harassment Policy and a separate Sexual Misconduct Policy. On 19 July these documents were all adopted and endorsed by a motion in the House, together with the necessary changes to the Code of Conduct and Standing Orders. However, it was also decided, with the agreement of the House Trade Union Side, (though I should emphasise not with the agreement of the First Division Association), that these new procedures should apply forthwith to all members of the House staff. In addition, the House adopted the Group's proposals for there to be reviews of these new arrangements, by a body to be set up by the Commission, at periods of 6 months and 18 months, each review to take into account the findings of this inquiry.
93. In accordance with my terms of reference I have therefore assessed these new policies and procedures as 'existing', rather than 'proposed' procedures, as set out later in this report. It is most unfortunate however 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, in accordance with principles of fairness and transparency.

94. Many of those who made contributions to this inquiry understood that this report would form part of the material taken into account in the drafting of these important new procedures. Given the acknowledged need to restore trust and confidence and to change the culture, this marks an unhappy beginning to that process. It is clear that the prospect of a review 6 months down the line has not mitigated the concern or the disappointment felt by members of staff.
95. The need for urgency is understood, and once again the House was designing reactive measures to deal with the problems revealed in the media reports. However, some serious concerns have been expressed relating to these new measures, given the need for coherence and for people to have confidence that their complaints will henceforth be dealt with fairly, impartially and effectively.
96. These concerns are:
- the rapid pace at which all this work has proceeded and the limited time to think carefully about the issues, or about how the procedures are all to work in practice;
  - the challenging conditions under which staff were required to work to deliver the new procedures in the time limit set;
  - the unlikely prospect of necessary procurement and contractual arrangements being in place to enable the new procedures to operate effectively within a reasonable time;
  - the lack of clarity surrounding some of the measures described;
  - the provisions regarding confidentiality and anonymity;
  - the procedures put in place to deal with complaints about MPs, which are said to be blighted by the same flaws as in the Respect Policy; and
  - confusion as to what should happen to those unreported or unresolved historical complaints pre-dating the new Scheme, which have been the subject of particular concern during this inquiry.

97. The general message conveyed has been that, while new policies and procedures to address bullying and sexual harassment in the House are to be welcomed, and there is much of value in some of these new arrangements, it is more important to get it right than to get it done in haste, in accordance with self-imposed deadlines and with results that many now regard as unlikely to deliver coherence or restore confidence.

#### **D. The Nature and Extent of the Problem: Bullying and Harassment**

98. I need to deal first with definitions. The terms “bullying” and “harassment” can mean different things to different people and it is important to understand what they mean in this context, and what I mean in using these terms. I deal with sexual harassment later on, but it is important to bear in mind that it is not always possible or sensible to try and compartmentalise misconduct of this kind. Some of those contributing to this inquiry described behaviour which would fall within more than one category.
99. I will summarise the current legal position, because the legal requirements are relevant to the policies and procedures in place to address this behaviour and there are obligations and potential liabilities arising from the information provided to this inquiry.
100. There is, first, an overriding obligation at the European level to protect the health, safety and dignity of all workers, and bullying behaviour is recognised as harming both the safety and dignity of those at work. The EU Charter of Fundamental Rights, which by virtue of article 6(1) of the Treaty of the EU has the same legal effect as an EU Treaty, provides in Article 31 that “*Any worker has the right to benefit from working conditions respective of his health, security and dignity.*” And the EU Health and Safety Framework Directive (89/391/EEC) obliges employers in

a number of respects to “ensure the safety and health of workers in every aspect related to work.”

101. There is obviously considerable overlap between the terms “bullying” and “harassment”, and employment policies that address them often use the terms interchangeably. If there is harassment of an employee on the basis of a protected characteristic, as an act of discrimination, the Equality Act 2010 is engaged and I shall refer to that again later on.
102. There is no direct statutory protection for an employee who is the target of harassment where there is no discriminatory element. Under the Protection from Harassment Act 1997 it is unlawful for someone to pursue a “course of conduct” (thus involving two or more incidents), which they know or ought to know would be harassment. The term “harassment” is not defined in the Act since it can take so many different forms, but section 7(2) provides that it “includes alarming the person or causing the person distress,” and “conduct” includes “speech.” The actions complained of do not need to be violent. The courts have stated that “harassment” describes conduct targeted at an individual, which is calculated to cause alarm or distress, and that to be actionable it must cross “the boundary between unattractive or even unreasonable conduct and conduct which is oppressive and unacceptable” (*Conn v Sunderland City Council* [2007] CA Civ 1492). A member of House staff who acts unlawfully in this way could therefore be held liable individually, as could a Member of Parliament. And the House of Commons, as an employer, could be held vicariously liable, under section 3, for a course of conduct by one of its employees that amounted to harassment in breach of the Act.
103. Employers have obligations under the Health and Safety at Work Act 1974 to ensure, so far as reasonably practicable, the health, safety and welfare of their employees, including protecting from ‘work-related

violence,' defined so as to include acts of bullying and harassment. In addition, there is at common law a well recognised and well-established, non-delegable duty of care owed by employers to their employees, which requires them to establish a safe system of work. That duty includes taking reasonable steps to prevent foreseeable harm, which would include foreseeable acts of serious bullying or harassment by those with whom employees come into contact in the course of their work, if they suffer injury or other damage as a result.

104. A member of House staff who suffers injury, as a result of bullying or harassment, could therefore bring a personal injury claim against their employer for a breach of that duty of care, and the House could be held liable for their injuries and loss. At common law, if the bullying involved an assault or battery, an individual member of staff or a Member could be liable, an assault being an act causing another person to apprehend the infliction of immediate, unlawful force on his person, and a battery involving intentional direct physical contact with someone without consent or lawful excuse.
105. The term "bullying" covers a wide spectrum of behaviours and a degree of flexibility is required when classifying such behaviour. In my view one of the most helpful descriptions of bullying at work is that formulated by the late Tim Field and those at the Andrea Adams Trust, who carried out much of the pioneering work in this field, namely that it is "*behaviour that cannot be objectively justified by a reasonable code of conduct, and whose likely or actual cumulative effect is to threaten, undermine, constrain, humiliate or harm another person or their property, reputation, self-esteem, self-confidence or ability to perform.*"
106. More recently ACAS have described bullying and harassment together as "*offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate,*

*denigrate or injure the recipient. Bullying or harassment may be by an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. It may be persistent or an isolated incident. It can also occur in written communications, by phone or through email, not just face to face. Whatever form it takes, it is unwarranted and unwelcome to the individual.”*

107. The typical features of bullying and harassment are therefore that the behaviour is unwarranted, unwelcome, intimidating, degrading, humiliating or offensive. The important question is whether the actions or words are viewed as detrimental and unacceptable to the target. It is the deed itself and its impact on the target that matters, not the intention of the perpetrator. And it is usually preferable to describe someone being bullied as a ‘target,’ rather than a ‘victim.’ The latter term tends to be associated with negative notions of someone unable to take responsibility for themselves, or needing to be ‘rescued’ from a situation. Bullies often respond to complaints about their behaviour by describing the target as having a “victim mentality,” with all the negative imagery that phrase invokes.
108. Bullying and harassment can affect anyone, in any career, at any time, at any level and within any workplace, and this inquiry has perhaps served as the paradigm of their reach. Such behaviour can take the form of easily noticed, physically threatening or intimidatory conduct with immediate impact, or it can take place behind closed doors, or be much more subtle or camouflaged and difficult to identify, at least at first. It can start, for example, with what appear to be minor instances, such as routine ‘nit-picking’ or fault-finding with someone’s performance, but which become cumulative or develop into more serious behaviour over time, enabling the perpetrator to isolate and control the person and

eventually, on occasion, to apply conduct or capability proceedings inappropriately in order to bring about their dismissal.

109. Some bullies lack insight into their behaviour and are unaware of how others perceive it. Others know exactly what they are doing and will continue to bully if they feel they are unlikely to be challenged. Bullying and harassment can sometimes be overlooked, as a result of common euphemisms being used by way of explanation or justification, referring to someone as having a “poor management style” or a “bad attitude,” for example, or to the problem being due to a “personality clash.” The information provided to this inquiry has demonstrated all these different features.
110. The inquiry is concerned with the nature and extent of bullying and harassment alleged against both MPs and House staff. I deal first with the allegations made against members of the House staff, though a number of the points made about the nature and normalisation of such behaviour, about its effects, and about disempowerment, fear, self-blame and the unwillingness of people to report it are obviously of general application.

#### **D. 1. Alleged Bullying and Harassment by House Staff**

111. In relation to the allegations of bullying made against House staff, a number of people referred to the need to distinguish between behaviour that is truly bullying and behaviour that is no more than “assertive” or “firm” management. They referred, similarly, to the need to distinguish between harassment and legitimate supervision. I agree that it is important to recognise these distinctions, although there can sometimes be a fine line and both managers and those whom they manage need to be trained to spot the difference.

112. A good line manager can manage or supervise someone firmly and be assertive without bullying or harassing them, and I heard several examples of good line management in this respect during the inquiry. Firm management does not demand an overbearing or oppressive style. Firmness and resoluteness are not inconsistent with an open and inclusive style, encouraging direct communications with employees and regular feedback on performance, which are invariably more motivating.
113. It is also important to distinguish between bullying behaviour and reasonable management responses to actual or perceived misconduct, or to poor performance by an employee. A few contributors described instances when managers who had instigated appropriate conduct or performance management proceedings found themselves on the receiving end of a grievance accusing them of bullying. This had immediately brought a halt to the proper management of the employee's conduct or performance. The original deficiencies were then lost during the months taken up in dealing with the grievance, expending precious resources, causing distress to the manager accused and inhibiting other managers from tackling poor performance. Sometimes there had been earlier failures to manage the employee effectively and they had simply been moved on to other departments, where the manager who eventually sought to address the poor performance was then unfairly accused.
114. There will obviously be occasions when an allegation of bullying is wrongly or unfairly made, as a response to legitimate conduct or performance management. Anyone working in this area will have seen this and will know the signs. I identified a few instances amongst all the information provided where I considered that this was the most likely scenario. And I recognise that a manager on the receiving end of such an allegation will be justifiably upset and angry.



115. The other side of the coin, however, is that performance management proceedings are sometimes misused as a means of controlling or humiliating someone, or even to terminate their employment. There were a number of examples of that referred to in the contributions. A key part of the necessary training and awareness raising on these issues is ensuring (a) that managers understand the difference and that they are properly equipped to tackle poor performance confidently, sensitively and effectively; and (b) that employees also understand that a manager's right to manage is not to be confused with bullying.
116. In this respect it is the whole picture that is important. Looking at the various incidents described in this inquiry, for example, when introducing new standards of performance, a good manager will usually involve all the members of the team in agreeing them, rather than seek to impose them without discussion and with accompanying threats of disciplinary action if they are not met. Positive contributions and improvements in performance will be monitored, acknowledged and rewarded openly, rather than dealt with arbitrarily, involving obvious acts of favouritism, or just ignored altogether.
117. A failure by someone to achieve the required standards will be dealt with initially as a performance-improvement issue, the employee being treated with civility throughout and with the provision of appropriate support, rather than pressure to conform being exerted using sarcasm, ridicule, threats or humiliation, often in the presence of others in the team. And the employee will know from the start that their conduct is under investigation and why, rather than learning only after the event that it has been under investigation for some time, and that disciplinary action is imminent, as appeared from some of the information given.
118. In general terms, accusing someone of bullying is a serious matter and such an accusation should not be made lightly. It is always right to

consider whether the “perpetrator” was under acute pressure and just having a bad day, for example, and whether this was just an isolated outburst with no lasting effects and the behaviour was out of character, or whether such incidents had happened before. Patterns of behaviour are extremely important in tackling this effectively. It is therefore important for organisations to maintain reliable records and to log reported incidents and their outcomes accurately, and to have systems in place to enable patterns to be picked up and their historical and systemic significance understood.

119. Many people were highly critical of poor record keeping and poor follow up in the House in respect of such incidents, and of the consequent inability of those responsible for dealing with such allegations to do so fairly or effectively. Poor record keeping, or “*just holding some things on file and taking no action*” were constant themes in the contributions, and some senior personnel frankly acknowledge that there have been, and still remain serious deficiencies in this respect. While recognising the abilities and the dedication of some individuals working in HR, the HR department collectively was the subject of severe criticism in a number of respects, not least the maintaining of records, breaches of confidentiality, conflicting advice being given by different HR personnel, and a general lack of follow up of reported incidents.
120. Senior managers acknowledge that “*HR has had a terrible reputation in the House for years,*” that people don’t come to HR because of that reputation, and that there is a need for vast improvement in this area. They point, however, to the huge caseload for advisers and to the volume of work they are expected to deal with. The service was apparently restructured two years ago, which has probably added to the difficulties. A more streamlined Staff Handbook and less complex policies and procedures, with better online resources and e-learning modules for

managers and staff would all help with these problems and I return to policies and procedures later on in this report.

121. However, in the information provided several names of members of House staff were referred to independently on a number of occasions, by both present and former employees, in connection with serious incidents of alleged bullying. This indicates both that the policies in place to prevent such behaviour are not working, and that this is not a problem of the past. There would appear to be particular individuals, and particular pockets or teams in the House that are already on the radar, where there are known to be particular problems in this area and where warning lights should certainly be flashing.
122. The “silo” nature of the functioning of different teams, each team being “*sovereign to itself*” is likely to conceal some of what is happening, but the signs are usually there to be discovered and there needs to be a much higher level of awareness and of monitoring. A previously valued employee may suddenly have an uncharacteristic drop in performance, for example, or go on sick leave with “stress” or “depression,” take early retirement unexpectedly, or leave in unsatisfactory circumstances with the true reason hidden behind a compromise agreement with a confidentiality clause. A number of those signs featured in this inquiry. And a number of people coming forward told of discovering, after they left, that a number of their predecessors had similar experiences to relate. “*Everyone knows who the bullies are, they walk among us*” was a common observation.
123. Some areas of the House were described as having a particularly bad reputation for sexist or racist attitudes and “*banter*”, or were known to have “*bad or dysfunctional management*,” or a “*macho culture in which women in particular are not welcome*,” or where some managers run their teams “*like fiefdoms, while others turn a blind eye*” and “*regard*

*themselves as untouchable.*” Some women described always being asked to buy the coffee or make the tea, or take notes of meetings, for example, or being humiliated in front of colleagues by comments about why they needed to work or have a career if they had a husband, or “*why do we need another woman in here, we already have two.*” Some members of staff from “BAME” backgrounds reported racist abuse, or being frequently challenged as to their right to be in particular parts of the estate. In such conditions can bullying and sexual or racial harassment flourish and the accounts indicate some serious problems in some areas.

124. The effects of bullying on those employed in an organisation and on the organisation itself can be devastating, and the contributions contained numerous accounts of its destructive results, in relation to alleged bullying by both House staff and by MPs. People who believed themselves to be strong, capable individuals suddenly found that they were unable to eat or sleep properly, or they were shouting at their children or partners, or were prone to sudden bouts of crying or panic attacks. Their social interaction was reduced. People gradually lost all belief in themselves and some have suffered lasting physical or mental ill health as a result. Bullying can damage or even destroy careers, relationships and lives.
125. Poor employee relations, inefficiencies, prolonged staff sickness, increased employee assistance and occupational health costs, loss of respect for senior managers if the bullying is not tackled effectively, and reputational damage for the institution are all well-documented consequences. Bullying is recognised as a health hazard and it should therefore be approached, risk assessed and managed with the same diligence as is applied to fire safety, cyber attacks, or any of the other recognised workplace hazards.

126. Research has shown that people who are bullied may be unwilling to ascribe that word to what is happening to them, or may underplay it, or even blame themselves for it. There were clear examples of this in the contributions too. Some accounts, the substance of which indicated classic bullying, were prefaced, for example, by the words, *“I’m not sure this is serious enough for your inquiry, it sounds trivial but.....”* And a common sentiment was *“I keep thinking it must be me and that I must have done something wrong.”* I identified feelings of embarrassment and shame in a large number of cases and some people found describing the details of the behaviour very difficult and distressing. It is a common feature of workplace bullying that the target feels useless, guilty and to blame for what is being done to them. And those responsible for dealing with reports or complaints about such behaviour have to be trained to recognise the signs, to approach the matter fairly and objectively, but to know how to elicit information sensitively from the person reporting it, how to probe beneath the surface when speaking to the alleged perpetrator, and how to look for clues elsewhere.
127. Many people criticised the inadequate responses of managers or HR personnel when they reported bullying behaviour. They were told, for example, *“it’s just X, he’s like that with everyone,”* or *“she probably didn’t mean it, you shouldn’t let her upset you,”* or they were advised starkly *“there is no evidence to support your allegations.”* Some were asked *“what had you done to make X do that?”* or *“are you sure you weren’t just imagining it?”* Many said that the usual response to their reports was to move them on to another post, rather than to tackle the bullying at source. The failure to take such reports seriously and to deal with them effectively means that the problem continues unchecked. And it invariably compounds the harm that has been caused to the individual by the bullying itself, and that was the case in a number of the accounts.

128. A frequent criticism was that the person reporting the bullying was expressly advised against bringing a complaint, *“it’ll only make things worse for you,”* or *“it’s pointless, you won’t get anywhere”* being responses described by a substantial number of people. There was some criticism too of the trades unions for failing to provide adequate advice and assistance on occasions. There were frequent references to these problems being generally *“swept under the carpet,”* enabling bullying and harassment to continue unchecked. And it means that no reliance can properly be placed on the fact that there have been few complaints, or on staff surveys that fail to reveal the true scale of the problems. In fact, even allowing for the low response rates, staff surveys between 2014–2016 suggested that bullying by an MP or a member of House staff had allegedly been experienced each year by a sufficient number of those who responded to prompt further inquiry and action.
129. Almost all the allegations of bullying by members of House staff in this inquiry were made against someone in a more senior position, consistent with the typical pattern of bullying cases. Management style is closely linked to organisational culture, and there were many examples of behaviour described that would fall within the category of workplace bullying. A single incident of some of these may be unlikely to be characterised as such, but a few incidents taken together or occurring repeatedly over time can indicate a pattern suggestive of unacceptable bullying.
130. These grey areas can sometimes cause difficulty, which is why it is important for employers to provide clear and specific examples of what is unacceptable behaviour in their policies and procedures.
131. In the accounts given by those contributing, the member of staff was frequently undermined, belittled or patronised, or shouted at in front of others in the team, or they were overloaded with work, had unrealistic

goals set for them, or had tasks taken away from them without any explanation, or their job was suddenly “*redefined.*” Requests for annual leave or for compassionate or study leave, or for training to assist with their duties were refused without explanation, or the response to their requests was unreasonably delayed. People were marginalised, ignored or excluded from team events or discussions, or some were singled out for harsher treatment than others who had made comparable mistakes. Work-related information was withheld and guidelines or instructions were suddenly changed. There were unfounded comments about someone’s job security, or personal insults and demeaning remarks about their appearance. Some of the behaviour alleged took a particularly sinister form, namely betraying confidences to other members of staff, or spreading malicious rumours about people or making them the subject of gossip in the department, with the apparently deliberate aim of causing distress or damaging their reputation.

132. Many of those who are bullied feel unable to stand up for themselves when it is happening and some people find it difficult to understand why that is. The reasons are complex but this too is a well-recognised feature of workplace bullying. And it is certainly not confined to someone who has a “*vulnerable personality*” or who is regarded as being “*over-sensitive,*” or as one person suggested, “*a bit of a delicate flower.*” A young female contributor, describing bullying behaviour by one manager, observed simply, “*I was just scared of him, we all were.*”
133. Disempowerment, bewilderment, shame and embarrassment are powerful allies in preventing someone from speaking out, in particular, as in this inquiry, when accompanied by the fear of being disbelieved, or of being unsupported, or branded “*a member of the awkward squad,*” or losing their job. Even if someone eventually decides to confront the perpetrator, being told behind closed doors, as several people reported, “*No-one will ever believe you*” can have a chilling effect.

134. And the bullying can increase or involve retaliatory measures if the target tries to challenge their treatment and stand up for themselves or complains about it. A denial of the allegations accompanied by the bringing of counter-allegations against the target can follow and I heard several accounts of this happening in addition. Grievances and counter-allegations may then be “resolved” by the suggestion that there should be “*a clean slate*” or that the protagonists should “*start afresh,*” with the result that the substance of the original alleged bullying behaviour is lost, and no record is kept of the allegations.
135. Sometimes, the target can eventually be coerced into leaving employment they enjoyed, through enforced “*ill-health retirement,*” or dismissed for specious allegations of misconduct or for incapability, following proceedings which are said to have been “*fully in accordance with process.*” Cases may appear to have a superficial legitimacy but, on analysis, may reveal significant shortcomings.
136. In this inquiry one case in particular was considered sufficiently egregious for several witnesses to come forward, independently, to provide information about what each of them regarded as “*appalling bullying management behaviour*” towards one employee and “*deliberate and successful efforts to manage them out of the House,*” before the individual concerned reluctantly came forward to speak about it themselves.
137. Many people will have been reluctantly retired on medical grounds without there being any background of bullying behaviour. But those involved in the decision-making in such proceedings need to be alive to the risks. Long experience has shown that those who bully can sometimes manipulate the various stages of “process” and a number of contributions raised this issue. Employers must be astute to distinguish between the valid use of process in the case of genuinely poor



performance or illness, and manipulation, when the procedures can themselves become vehicles of bullying. Bullies can be articulate and confident. An overworked and under-resourced HR department may too readily accept the bully's version of events over that of the target, who may be in distress and unable to articulate what has been happening to them. Witnesses may be too afraid to come forward and support the target's account, even though they know it to be true. One contributor remains ashamed of their "*complete failure to say something when X needed my help.*"

138. The results of any process can be skewed by a carefully prepared and documented management account, coupled with an institutional fear of legal action if the target's account is accepted and, sometimes, by the perceived greater value to the organisation of the alleged perpetrator than the target. These attitudes and influences will often operate at a sub-conscious level, which is why awareness of and training on these issues is so important.

#### **D. 2. Alleged Bullying and Harassment by Members of Parliament**

139. Many people paid tribute to the courtesy and respect shown to members of staff by the vast majority of Members of Parliament who have, over the years, regarded the staff of the House Service as its most valuable asset and who have worked collaboratively and respectfully with them, often under considerable pressure, making reasonable requests for assistance and gratefully accepting the advice given.
140. Members and staff can work long hours. Workload, tiredness and stress can provoke rudeness and angry outbursts on occasion. We have all been there. Some Members are known to be more demanding, or more impatient and short-tempered than others, but that is all part of the general pattern of relationships at work generally and no complaints

were made about isolated “flashpoint” incidents, or about behaviour which would be within the normal range to be expected and accommodated in any place of work.

141. However, the accounts given of alleged behaviour by some Members towards staff reveal behaviour going far beyond that range and which would come well within the category of bullying or harassment. For some people its effects have been acutely distressing, long lasting and, in some cases, devastating. Some MPs were alleged to be “*serial offenders*” and there was said to be widespread and long-standing awareness internally of their behaviour, but some of those contributing anonymised the incidents described in order to preserve confidentiality. It is therefore not possible to put a precise figure on the number of MPs who are alleged to have behaved in this way, but the accounts indicate that alleged bullying behaviour has been a more widespread problem than one limited to a few individuals. And, while some of the allegations relate to the past, others reveal that it continues to be a problem.
142. Most of the incidents in the past are said to have occurred within the last 10 years, though some go back even further than that. Others are of more recent origin and some are said to be occurring fairly regularly at the present time. I have no doubt that the vast majority of Members of Parliament will wish to condemn such behaviour, and to ensure that it is dealt with effectively wherever it occurs.
143. Many of the allegations involve numerous ‘low level’ incidents, which nevertheless cross the line into bullying behaviour in some cases as a result of their frequent repetition and their cumulative effect on those targeted. However, some allegations involve more serious behaviour and some, most of them made by women, describe bullying and harassment of the most serious kind. Some of the allegations involved shocking and

abhorrent behaviour, which would evoke outrage in any place of work but which has profound implications for the House of Commons.

144. Some of the accounts concern Members who are now no longer in the House, but others relate to those who are currently serving as the elected Members for their constituencies. The alleged behaviour is not the preserve of any one political party and allegations have been made against both men and women, though the vast majority have been made against men. It involves those who have been Members for both lengthy and shorter periods of time.
145. Many consider that the present situation is *“the result of a system in which Members know they are free to act as they wish towards House staff. In part this is because there are no consequences and they have never feared any sort of discipline over bad behaviour. Members can act as they wish and they know that they will keep their job and we will have to continue to provide them a service. There is also a culture which reinforces this behaviour. When a new intake arrives after an election some begin by being friendly and polite to everyone, but as they see how more established Members behave towards staff, some become significantly less polite themselves.”*
146. As some have observed, and as the Working Group acknowledged earlier this year, *“Members of Parliament occupy a position of unique privilege and influence in public life.....as law-makers and as our elected representatives it ought to be expected that they lead by example and are held to the highest standards of conduct.”* In light of the obligation as to confidentiality owed to those contributing to this inquiry I cannot describe the alleged incidents other than in general terms, but the information provided indicates a significant level of misbehaviour of this kind. The allegations have come from people working in all those areas of the House where there is interaction between staff and Members. And

there appears to be a widely held and divisive belief that certain senior people *“regard themselves as a special breed and as the elite. They should therefore be able to manage and control MPs’ behaviour, but in fact they seem to have no influence over them at all and invariably adopt a ‘give them what they want’ approach, however unreasonable the request being made.”* There is a strongly held view that this sets the tone for what happens to staff in the rest of the House.

147. It is difficult to overstate the impact that the existence of all these allegations has on the level of respect for Members and the authority of the House of Commons as a whole, or the damage being done to its dignity and standing and to public confidence in our Parliament.
148. Many of the accounts described almost daily examples of some Members:
- shouting at or belittling staff;
  - swearing at them face to face or over the phone; or
  - being *“routinely unpleasant, overbearing or confrontational,”* towards them and *“treating us like servants.”*
149. The ‘non-deskbound’ services and those with operational functions feel that they bear the brunt of this behaviour, though the allegations of this pattern of behaviour came from those working in other teams too; *“It is as though we are invisible to some of them. We are generally ignored unless there is a problem and then we will be screamed or shouted at, usually in front of people. It is very upsetting.”*
150. In a few cases Members have apologised to the members of staff concerned, but the pattern is usually frequent episodes of *“low-level rudeness”* with less frequent but extremely unpleasant *“volleys of abuse and aggressive or insulting language and behaviour”* on occasions, for which no apology is forthcoming, and which are cumulatively regarded as

*“very wearing and demoralising.”* Some contributors described *“an air of entitlement and arrogance”* displayed by some Members, who *“get really angry with us if we don’t instantly recognise them.”*

151. Certain services and facilities in the House are reserved for Members only, or for Members and certain grades of staff only. Grading and status are plain from passes, which must be worn at all times. Some contributors regard these visible signs of hierarchy as reinforcing the two-tier status accorded to Members and staff, and as contributing to an unhealthy *“us and them”* culture generally, and to the arrogance displayed by some Members, who are encouraged to jump queues, for example, or to ask for lifts to be cleared for them to use. Some staff, described being told to leave a table in one of the bars because they were *“just staff”* and could go and drink elsewhere, or being told aggressively to *“get out of the lift now”* because some MPs wanted to use it. I have no doubt that there may be good reasons why, on some occasions such as during Divisions, Members need urgently to use a lift, but aggressive demands to staff to leave, rather than polite requests, are reported to be frequent occurrences.
152. In general, unnecessary restrictions of this sort also serve to reinforce the grade-based divide amongst the House staff about which complaint is made. Staff report being told off for using the *“wrong”* toilet, or being stopped and challenged to prove their status and their entitlement to be where they are. If there is to be real culture change, the removal of such unnecessary restrictions should be an early priority.
153. Members of Parliament shouting abuse at staff was something frequently referred to, with the abusive phrase *“you’re f\*\*\*ing useless,”* shouted at close quarters, being described independently, by a number of people working in different departments, as a regular event. This abuse was often in public and occasionally it was accompanied by grabbing someone

by their hand or arm. The possible role played, in some of these cases, by a ready access to alcohol in the various bars on the premises was referred to by several contributors. The steps taken so far to restrict access to alcohol during working hours may need to be revisited.

154. When first arriving in the House, staff described being warned about what to expect from some Members and to be on their guard. *“I was told to expect rudeness and anger, and I remember being taken aback at how it was considered acceptable both to be shouted at and not to take action against it.”* A number of people referred to the desensitising effect of frequent rudeness and abuse of this kind, when it came to recognising incidents involving more serious or sustained bullying. *“There was a certain inevitability about abuse from Members, and it soon started to feel like something that was not worth reporting even if it was more serious.”*
155. At the heart of all these accounts lie what staff regard as the inherent imbalance of power and the prevailing culture in the House Service, long established and perpetuated by the senior administration, which many regard as crossing *“the boundary between appropriate respect for those duly elected in the democratic process and an unhealthy level of servility approaching genuflection.”* Some senior members of staff are clearly stung by this criticism and suggest that it is misplaced. The vast majority of contributors to this inquiry, however, regard it as an accurate description, and they respond to these suggestions as providing further examples of the *“culture of denial”* and of the disconnect between members of staff and the senior administration.
156. A number of people, coming to work at the House after experience of working in other organisations, described being *“shocked by the almost God-like status accorded to MPs, who must always be treated with kid-gloves, and shocked by the level of deference of staff, which fell into the*

*obsequious category more often than not, and by a service mentality in which MPs are not effectively challenged by staff.” While accepting without question the respect due to those elected to serve as Members of Parliament, the general theme is that this has developed into a “deeply unhealthy power dynamic between Members of Parliament and staff, in which the elected status of Members versus ‘unelected bureaucrats’ is seen as excusing even the most flagrant behaviour on occasions.” Some attributed this culture, in part, to generational and societal differences, or to the “more reserved, cautious and scholarly characteristics of the senior managers, as contrasted with the more dominating, goal-oriented, action-not-words style of many ‘time poor’ and ambitious Members.”*

157. Whatever the reasons for it, the general description of the prevailing culture is that, rather than collaborative and professional relationships of mutual respect between MPs and House staff, *“the dynamic is set to master and servant, regardless of the seniority or status of the member of staff, and although this system of service has largely vanished from the modern world this strange hierarchy persists in Parliament.”* The phrase “master and servant” last appeared in the legal textbooks in the 1960s and early 1970s and it is disconcerting to see it deployed so frequently in this inquiry. Some contributors describe the true principle underpinning the work of the House Service as one of stewardship rather than servitude. They consider that this guiding principle has become distorted somewhere along the way, due either to the advancement of the customer service agenda, in which the MP “customers” are always right, or to a variety of other causes. Whatever the cause, however, the view that *“Members need to understand that we are stewards of the institution rather than their own personal servants”* and that *“the institution is worth fighting for”* was a common theme.
158. Some of the most serious allegations related to the conduct of some MPs when away on visits abroad or when working on Select Committees,

sometimes when members of staff were giving them unwelcome but correct advice about the rules or procedural requirements of the House, or when they were being regarded, inappropriately, as a resource for MPs' personal use. Since 2010 the appointment of Members to chair these committees has been by election in a secret ballot of the House. And the House endorsed the principle that political parties should elect members of the committees in a secret ballot *"by whichever transparent and democratic method they choose."* Following elections within parties, the successful candidates are formally proposed to the House by the Committee of Selection.

159. The staff working with those Committees will source and analyse evidence, advise the Chair and Committee members and generally manage the process of inquiries so as to enable the Committee's work. Regrettably, this work has resulted in reports of some completely unacceptable behaviour. Some Members are said to *"cross the line between an acceptable level of rudeness and strong-arm tactics, humiliation or intimidation,"* and some Members are described as *"mavericks, who try to use the committee for their own ends."* Those coming forward described the nature, range and frequency of this behaviour, some of which was serious and sustained, and in some cases the treatment meted out was regarded as *"nothing less than a campaign of bullying and harassment."*
160. The behaviour alleged by members of House staff included the following:
- frequently targeting a member of staff with personal abuse;
  - constantly criticising or making derogatory remarks about their work;
  - shouting or speaking aggressively at staff, and often junior members of staff, for not doing something they wanted, or not doing it sufficiently quickly;
  - telling them they are useless and humiliating them in front of others;



- taunting, mocking or mimicking them;
- deliberately belittling them in front of other Members;
- making offensive personal comments about their appearance or perceived characteristics, or questioning them repeatedly about their personal life;
- using offensive or discriminatory language about other staff or MPs;
- challenging the staff member's authority if asked to follow a particular procedure or rule;
- belittling someone's junior status;
- obstructing staff from properly carrying out their job;
- imposing wholly unrealistic and inefficient work demands or deadlines;
- questioning their annual leave entitlements or telling staff to remove themselves from contractual rotas/responsibilities or from scheduled training courses;
- suddenly holding unscheduled meetings or making new demands at a time when they knew that staff had to leave because of childcare commitments, and in a way that was described as "*poisonous, vindictive and deliberate;*" or
- repeatedly subjecting them to lengthy and humiliating tirades of criticism and abuse in front of colleagues.

161. Some of those on the receiving end of such abuse became extremely unwell. *"I felt physically sick....I would find myself crying in the toilets, I wasn't able to eat or sleep properly and I began to feel consistently unwell."* Members of staff observing such incidents described them as *"very disturbing...I will never forget them."* And a senior external contributor, witnessing such an incident, described it as *"humiliating and mortifying to watch."*

162. Many members of staff who have reported such allegations of bullying regard the prevailing culture in the House as the principal reason for the complete lack of support said to have been shown to them by their senior managers, in either seeking to prevent such behaviour or dealing with it effectively, and as the reason for the ineffective policies in place to address it. It has *“always been part of the culture of the House Service that we accept that some Members will be over-demanding, difficult or just plain rude and unpleasant. Working with these Members is to be regarded as counter-balanced by the pleasure of working with the many polite, grateful and respectful Members.”* The lack of support when something goes wrong is particularly wounding given the strong professional ethic, among Clerks in particular, that they should be *“seen but not heard”* and should *“always provide seamless support,”* whatever the provocation. These traditional functions *“suppress any ‘fight or flight’ response in relation to the behaviour of some Members.....our job is to secure the process of business, so when publicly subjected to humiliating abuse, we stay quiet, we try and smooth things out, we don’t confront at the time, but we pay a ransom.”*
163. The willingness of managers to take action seems, in some cases, to depend on the level of seniority, status or influence of the particular Member of Parliament. A long-standing motto in one team has apparently been *“Be strong with the weak and weak with the strong.”* As a method for taking the path of least resistance, that adage has much to commend it. As an effective way of preventing bullying behaviour by MPs and protecting members of staff, it is obviously hopeless.
164. In general, resilience and fortitude in the face of unacceptable behaviour, together with not making a fuss or creating difficulties for senior colleagues, are seen as valued competencies. The ability of employees to cope with such behaviour is seen as *“a significant route to promotion”* or as a *“badge of honour”* with *“the mindsets of a number of senior*

*managers so behind current thinking that they say things people in their 30s would never dream of saying and they have belittled the experiences of those who have been harassed, mostly subtly and perhaps subconsciously, but it has been a huge surprise to me.”* Those who buckle are seen, and consequently see themselves, as not being up to the job. In such circumstances have self-confidence and self-esteem been eroded and the abilities of capable and talented staff lost to the institution. Unprompted observations from some people formerly employed in senior positions that, looking back, their duties to younger colleagues may have been neglected, indicated reflection, awareness and genuine regret for this unacceptable state of affairs.

165. In most cases, the failure to be supported by previously respected senior managers has significantly compounded the effects of the alleged bullying behaviour, and it has caused widespread disaffection. *“It was taboo to talk to managers about such things. They just looked shifty and embarrassed. Even when serious incidents were reported, managers would listen with sympathy but do nothing, save suggest that I should be moved to another job. I became completely demoralised.”* ..... *“The way in which I was denied support and undermined seemed like an exercise in ‘gaslighting’ and it made the Member’s treatment of me so much worse.”*
166. In relation to reported serious behaviour by some Members, presumably those regarded as “strong,” senior managers sometimes took the view that there was little point in anyone pursuing a complaint under the revised Respect Policy because it would have no impact whatsoever on the Member’s behaviour. It is perhaps hardly surprising that so many members of staff have expressed the view, at least in relation to more serious or sustained forms of bullying behaviour, that the Respect Policy *“is not worth the paper it’s written on.”*

167. Rather than trying to tackle the problem at source, the default response appears to be to move the person complaining of being bullied away from a job that they were otherwise doing well and enjoying, and that could enhance their career prospects. The result, however, has been that the allegation has been unresolved, and the problem really needing to be tackled has been allowed to continue unchecked. It has been the individual member of staff who is seen as making a fuss, or as the person presenting the problem that needs to be resolved. The view generally expressed is that *“MPs will continue to get away with unacceptable behaviour because the very senior staff will, in the end, always give way to them, not wanting to jeopardise their own careers, not wanting to bring the House into disrepute with bad publicity and not wanting to confront senior MPs....The answer invariably is to remove the person complaining and not to stop the behaviour.”*
168. At senior level, moving someone on is clearly viewed, in part, as *“an act of kindness”* and as a way of *“solving the problem, keeping the show on the road and ensuring the smooth running of the business of the House.”* But members of staff ask, rhetorically, at what cost? Not only is this not solving the problem at all for the individual employee affected, but it means, almost inevitably, that a new member of staff will subsequently be required to work in a position where their employers are already on notice that they too are potentially vulnerable to such behaviour. This is indeed an unhappy scenario for any employer having careful regard to his duty of care. As one contributor expressed it, *“It is evident to me with hindsight that my employers were abrogating their duty of care to me, but when I was going through this I was at my most fragile and I feel they took advantage of that weakness in failing to act. They let me down completely.”*
169. If members of staff are bullied or harassed by people with whom they are required to work, they are entitled to expect their managers to support

them and to act to defend them. *“When we have been subjected to intolerable abuse it is so important to us, when our advice to Members has been sound and courteously delivered, that we always have support from the senior administration. Sadly that just does not happen.”*

170. In many organisations senior managers, often assisted by sophisticated training programmes, are used to tackling this sort of behaviour and to holding difficult conversations confidently, and without damaging their working relationships or professional reputations. Mutual trust and respect are obviously essential in ensuring effective working relationships between Members of Parliament and senior managers, but an appropriate intervention to prevent bullying is not inconsistent with the continuance of mutual trust or an effective working relationship.
171. One contributor, relating his previous experience in another organisation, of being bullied by a very senior professional from elsewhere, contrasted the *“subservient and hand-wringing”* approach of managers in the House with the firm, prompt and effective intervention of his previous manager in declaring, *“You can be as rude as you like to me. But you will not be rude to a member of my staff.”* The problem was solved and the manager and the professional resumed their relationship and dealt effectively with the business of the day.
172. The inability of some senior managers in the House even to contemplate such an intervention seems to me to be demonstrated by the frank observation of one person that, *“I need, as a senior manager, to work with senior and influential politicians and to have a relationship based on trust and the sharing of confidential information. That does not sit very well with me telling them off for bad behaviour.”* This seemed to me to betray not only a lack of understanding about the role and responsibilities of management, but also a genuine discomfort as to how it could be done.

173. A firm and timely conversation by a senior member of the House Service with a Member of Parliament, in order to stop them bullying a member of staff, is not at all inconsistent with according due respect to the Member's elected status, or with maintaining a good and collaborative working relationship with them, based on trust and confidence between two individuals of senior status and influence. This example seems to me to epitomise some of the problems and cultural issues at play.

### **D. 3. The Gender Dimension**

174. There is an additional feature which is relevant to the information presented to this inquiry. The bullying and harassment alleged, both against Members of Parliament and other members of House staff, and the complaints of lack of support from senior managers have an obvious gender dimension. The majority of the allegations, and almost all the allegations of sexual harassment, which I deal with below, are made by women still employed in the House, or who were formerly employed there. Some women have described incidents which would involve all these forms of misbehaviour. This gender dimension was also reflected in the short survey carried out by the Working Group in February this year.
175. I make it clear that the accounts of those coming forward to this inquiry show that both men and women make allegations of bullying and harassment, and such behaviour is obviously to be condemned whatever the gender of the target. However, the gender breakdown of those contributing and the information they have submitted indicates that, in relation both to MP/House staff relations and to internal House staff relations, it is women in particular who have been targeted.
176. The alleged abuse has included demeaning references to their gender, for example; more women than men have not been taken seriously when

they complained, or have been advised against complaining about it, or criticised for *“not being tough enough to do the job.”* Attitudes at the senior level towards women are described as having generally been *“paternalistic”* and *“patronising”* over the years, with male senior managers *“treating their ‘girls’ in an avuncular way, but at the same time doing plenty to block their careers because ‘it wasn’t their turn,’”* and with *“some of the women trying desperately to be ‘one of the boys’ so as to fit in, and advising us to do the same.”*

177. More women than men have found their work undermined and their performance increasingly criticised, or have had tasks reassigned without explanation; and more women than men have had their careers constrained or diverted, losing respect within the House Service and failing to fulfill their potential as a result.

178. The prevailing notion is that bullying is gender-neutral. However, academic research in 2013, referred to by the CWJ, has suggested that there is a clear relationship between gender and bullying, with gender differences found both in reported prevalence rates and forms of bullying, and in the way in which targets and third parties respond to bullying. (see *“Workplace bullying as a gendered phenomenon”*, Salin and Hoel, *Journal of Managerial Psychology*, Vol.28 Issue:3, @235-251). This research has obvious implications for the way that managers, representatives and policy makers address and prevent such behaviour. Consistently with the finding that women are more likely to be susceptible to workplace bullying in places which have been dominated historically by men, some of those coming forward have expressed serious concern that, over the years, *“female staff in the House have been disproportionately exposed to abuse, victimised and humiliated; the bullying they encounter is often gendered in its language even when it does not take the form of sexual harassment or assault; and the procedures available to deal with it have routinely failed in relation to*

*complaints being made by women.*” The information submitted to this inquiry tends overall to support that view. In terms of public confidence and the message it sends to women in the workplace generally, the fact this is alleged to be happening in the House of Commons is deeply damaging.

#### **E. The Nature and Extent of the Problem: Sexual Harassment**

179. Sexual harassment in the workplace, so often excused as “just a bit of fun,” or “harmless banter” is a form of unlawful discrimination and has been for decades. Many of the incidents of reported touching could also be legally classified as sexual assault. It affects both men and women, but it has always been a form of misconduct disproportionately affecting women at work, and almost the entirety of the allegations made to this inquiry came from women. Its effects in the workplace are far-reaching. It hampers efforts being made to advance gender equality, blights working environments and relationships, and robs those affected of their dignity and well-being. And it is now well understood that most of those affected by it do not report it, usually because they are afraid to do so. Sexual harassment is frequently more about power than it is about sex. And it is an abuse of power of the most insidious kind. Employers need to take active steps to prevent it, to deal with it effectively when it occurs and to ensure that support is available for those affected.
  
180. There is a clear legal framework prohibiting harassment and discrimination in the workplace, both at the international and domestic level, and there are increasing efforts being made to tackle this problem. I summarise the relevant provisions because, as in relation to bullying, they are clearly relevant to the obligations of the House as an employer and to the policies and procedures put in place to address this behaviour.



181. As a member of the International Labour Organisation (ILO), the United Kingdom has ratified the Discrimination (Employment and Occupation) Convention 1958 (No.111) and is therefore required, by Article 2, to “declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.” Understanding the need specifically to protect workers from harassment and violence, the ILO intends to adopt a new international treaty in 2019, which proposal has been supported by the United Kingdom Government.
182. In Europe, there are obligations placed upon states to take measures to combat sexual harassment in Article 40 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), which came into force in 2014 and which the United Kingdom has signed and intends to ratify.
183. The principle of equality between men and women has long been recognised as a fundamental principle of EU law and the principle has been reinforced throughout the EU treaties. Article 21 of the EU Charter of Fundamental Rights prohibits sex discrimination and provides, in Article 23, that equality between men and women must be ensured in all areas, including employment, work and pay. The issue of sexual harassment was first addressed in a concerted way as long ago as 1991, with the adoption of a Commission Recommendation on the dignity of women and men at work and a Code of Practice on measures to combat sexual harassment. After earlier legislative measures addressing the problem and recognising that sexual harassment is a form of sex discrimination, the current EU definition of sexual harassment is now set out in the 2006 Equal Treatment Directive (2006/54/EC) as occurring *“where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of*

*a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.”*

184. In domestic law, sections 26 and 39 of the Equality Act 2010 together provide protection against discrimination in the workplace and recognise harassment on the basis of any of the protected characteristics as an act of discrimination. Under section 83 members of House of Commons staff are employees for the purposes of the Equality Act and they are expressly protected by its provisions. Their employers therefore have obligations in this respect and are potentially liable for acts of harassment on the grounds of a protected characteristic as an act of discrimination. The EU (Withdrawal) Act 2018 provides that, in so far as the Equality Act 2010 and relevant EU Directives will be considered retained EU law after ‘Brexit,’ these provisions will continue to bind and the general principles will remain central to their interpretation.

In addition to sexual harassment, there are two other forms of harassment in section 26. A woman may be harassed unlawfully on the grounds of sex if, for example, she feels humiliated, offended or degraded by unwanted behaviour which does not fall within the definition of sexual harassment. The EHRC give an example of a manager making comments to a team of his employees that there is no point in promoting women because they go off and have children all the time. Even though he doesn’t direct those comments at a particular employee, a female employee in the team finds his comments offensive and degrading. A woman may also complain of harassment if she is treated less favourably because she refuses to put up with sexual harassment, where, for example, her manager invites her home after they have been out for a drink and, after she refuses, he humiliates her by turning her down for promotion a week later. Under section 27 of the Act a woman may also complain of the separate, unlawful act of victimisation if she is subjected

to a detriment because she has done a “*protected act*,” such as complaining about an act of harassment.

185. Under the Act, drawing on the EU definition, sexual harassment is deemed to occur where one person engages in unwanted conduct of a sexual nature, and that conduct has the purpose or effect of either violating someone’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for the person concerned. Conduct of a sexual nature comprises an extremely broad range of verbal and physical treatment, including sexual comments or jokes, sending emails of a sexual nature, touching or more serious assault. Even if unwanted conduct is not intended to cause distress, it can still have the effect of violating a person’s dignity or creating an offensive environment. Whether it has that effect depends on the perspective of the person subjected to the unwanted conduct, and whether their reaction is reasonable in all the circumstances. And there does not have to be a course of conduct. One incident can constitute sexual harassment.
186. Section 40 of the 2010 Act prohibits employers from harassing their employees. Under section 109 employers can also be found vicariously liable for acts of harassment committed by their employees, if they are carried out in the course of their employment and the employer has not taken all reasonable steps to prevent such conduct. Anything done in this respect by an employee “*must be treated as also done by the employer.*” Provisions originally in the Act relating to the liability of employers for the acts of third parties (sections 40(2) – (4)) were repealed in 2013 although, as the CWJ point out in their submissions, employers can still be potentially liable for acts of third parties who were acting as their agents within the meaning of section 109(2). Anything done by an individual as agent for a principal is treated as also done by the principal, regardless of whether the acts were done with the principal’s knowledge or approval.

187. The survey recently conducted by the EHRC revealed that a quarter of those reporting harassment stated that the perpetrators were third parties, such as customers or clients. In their report *'Turning the Tables: ending sexual harassment at work'* (March 2018) the EHRC noted, in relation to this problem: *"A common theme was a lack of management support, with sexual harassment and assault apparently being viewed by some employers as a 'normal' part of the job. A number of those experiencing sexual harassment by customers felt that they had no option but to put up with this if they wanted to continue in their job."* There are uncomfortable parallels with the alleged incidents reported in this inquiry, albeit that some of the "customers" against whom allegations are made are Members of Parliament.
188. The need for urgent and robust action by the Government to tackle sexual harassment has recently been emphasised by the Women and Equalities Committee in their report published in July this year (*Fifth Report of Session 2017-19, HC 725*). Echoing the recommendations of the *Fawcett Society Review of Sex Discrimination Law*, published in January this year, the Committee have called for legislation to place a positive duty on employers *"expressly to protect workers from harassment by third parties and to ensure that employers can be held liable for failure to take reasonable steps to protect staff from third party harassment."* Calling, in addition, for a new duty to be placed on employers to prevent harassment, among a number of other steps designed to put sexual harassment *"at the top of the agenda,"* they concluded that *"Providing a workplace where employees have safety and dignity is no less important than other corporate responsibilities such as preventing money-laundering and protecting personal data."*
189. They also recognised, at paragraph 15, that the House of Commons was among the workplaces in which allegations of sexual harassment had been made. Noting that work was being carried out to investigate the

scale of that sexual harassment and the systems for handling reports, the Committee stated, *“We are not in a position to make comment on that work here, except to say that we all want to see our own workplace held to the highest of standards.”*

190. There can be few in the House who would disagree with that wish and expectation. However, as with bullying and harassment generally, the nature and extent of the sexual harassment of staff alleged to be happening in the House of Commons, together with descriptions of the lack of support for those affected and of the inadequate procedures in place to deal with it, paint a bleak picture. While some of the allegations relate to incidents in the past, which were either not reported or not effectively resolved, others suggest that this is a continuing fact of life for women working in the House.

#### **E. 1. Alleged Sexual Harassment by Members of Parliament**

191. The vast majority of Members of Parliament will doubtless be horrified by the conduct alleged against a minority of their number. Once again, it is not possible to put a precise figure on the number of MPs alleged to have behaved in this way. The most serious allegations related to the alleged *“predatory”* conduct of a few individuals, but overall the allegations indicate that sexual harassment has been a more widespread problem, and it crosses the political sphere. All of the allegations were made against men. Some are no longer in the House but others continue to serve as elected Members.
192. Women spoke of comments frequently being made during the course of their work, in either positive or negative terms, about their appearance, their dress or their *“physical attributes”*, and to them being the butt of joking exchanges about such matters between Members, in their presence and often in front of others.

193. There were allegations of:
- frequent inappropriate touching;
  - the invasion of someone's personal space;
  - repeatedly initiated physical contact, for example men patting women's heads, putting their arms around women, leaving a hand on their knee for an uncomfortably long time, trying to kiss them, grabbing their arms or bottoms or stroking their breasts or bottoms;
  - women being abused in vulgar, gender-related terms if they failed to do something that had been requested, or did it in a way that was considered inadequate or took too long;
  - women being repeatedly propositioned; and similar allegations from some men.
194. There were reports too of groups of male MPs becoming increasingly boorish on occasions when they were together, of frequent sexual innuendos, lewd comments or sexual gestures, or women repeatedly being asked questions about their sex lives, or about their personal lives generally, which they found offensive and humiliating.
195. Some men who came forward spoke of witnessing "*some atrocious treatment of young women by MPs,*" and of "*some women being treated as their personal servants, with veiled threats to have them moved if they failed to comply with requests.*" Some men also spoke of their shame, looking back now, that they had stayed silent at the time when such incidents occurred, and that they had not done more to help.
196. A few women described prompt and successful efforts by their line managers to deal informally with their complaints of sexual harassment and to stop it happening. However, the majority of women alleged that reports to line managers produced evasive responses, in which either their reports were questioned, "*are you sure you didn't do anything to*

*cause it?"* or belittled, *"it's not much to make a fuss about is it,"* or efforts were made to persuade them not to pursue a complaint. Some managers would ask, *"But what do you expect me to do about it?"* inappropriately transferring the burden of dealing with it from the employer to the individual employee.

197. In many cases reported derogatory sexual comments were trivialised, or the woman was advised, for example, that she was being *"over-sensitive,"* or needed to *"toughen up"*, or was told, *"you know what he's like,"* or *"you should be pleased that people find you attractive,"* or even *"when I was a clerk you hadn't earned your stripes until you'd been harassed."*
198. In some cases women described advice being given informally by colleagues to avoid particular Members, or to make sure they were *"never in a room alone with them."* Ultimately, the solution in many cases, if the woman complained, was to move her away from the job she was doing, to her detriment. Some women were told by their managers that they would not be asked to work in a role involving contact with particular Members because of their *"general reputation with women."* Otherwise, women reported that they were *"just expected to put up with it and get on with it."* The culture of resilience was said in this way too to have normalised behaviour which would plainly fall within the definition of sexual harassment.

## **E. 2. Alleged Sexual Harassment by House Staff**

199. Many of the allegations made against House staff involve similar forms of unwanted sexual behaviour towards women by their male line managers, or by other men in more senior positions. However, there were also allegations of increasing verbal, non-verbal and physical acts of sexual harassment by junior male staff towards their female colleagues, or towards more senior women. In the context of a *"macho"* culture said to

run generally through some areas in the House, some women described their acute discomfort at having to walk along corridors past groups of male employees, who audibly make comments and gestures about their appearance, and who make it clear that they are doing so. Young women graduates in their first job have been particularly shocked and upset by such treatment when “*running the gauntlet*” in this way.

200. I should also mention that some of the allegations, from both men and women, involved conduct which would clearly be regarded as both sexual and racial harassment, or harassment based on someone’s sexuality. Such conduct demonstrates the multiple layers or intersectionality of discrimination that can occur in any organisation and that need to be addressed in the policies and procedures in place to tackle it.
201. The allegations of sexual harassment against House staff included the following:
- inappropriate and repeated invasion of a woman’s personal space;
  - inappropriate touching, with men putting their hands on women’s arms, legs, or bottoms during meetings or social functions, or putting their arms around their shoulders or waists or pulling them into corners for close personal contact;
  - frequent comments about women’s appearance, suggestions that they should wear sexier clothing or more make up; and
  - derogatory or lewd comments about women’s anatomies or about women generally, often made in front of other people in the team and in such a way as to deliberately offend and humiliate.
202. Some of the most serious alleged conduct of this kind concerned a small number of House staff who were said to be known as “*serial predators*,” and there appear to be particular pockets of bad behaviour in this respect in addition, in a number of areas.



203. There is a widely held view among contributors that behaviour of this kind, whether alleged against Members or House staff, has simply not been tackled effectively over many years. Many women feel angry and let down as a result. The anxiety that women feel generally about reporting such behaviour has frequently been aggravated by the general lack of support and the feeling that such behaviour is regarded as “*the norm*” in the House.
204. For those who reported it, the strong advice given to them by some managers was that they ought not to contemplate bringing a complaint. Women’s lack of confidence in the procedures in place for complaints was also a factor in what are clearly long-standing failures to address sexual harassment in the House. And there is acceptance too by some managers that they have not tackled it effectively, and that they have felt unable to act, or have lacked the confidence to act when such behaviour was reported to them.
205. The fact that allegations of this kind have been made against some Members of Parliament is profoundly disturbing. Some consider that the power Members hold and those democratic traditions that serve to emphasise Parliamentary privilege have combined to create “*a toxic environment of deference and impunity, which some Members have exploited.....The more we indulge this behaviour and don’t stand up to it and name it, the more we endorse it by omission.*” There may well be other workplaces or other environments which are also regarded as toxic in this respect, but the nature and extent of these problems, and fact that they are happening in the House of Commons, is obviously completely unacceptable and makes this a particularly bad case.
206. At the root of all these problems lies the prevailing culture in the House and that culture finds expression, in part, in the policies and procedures

in place to tackle these issues, including the new Complaints Scheme introduced in July 2018.

207. In my terms of reference I have been asked to comment on the previous and the existing policies and procedures relating to bullying or harassment, and to complaints about such behaviour, comparing them to current best practice with a view to making recommendations as to how they could be improved.
208. I do so in the sections below. Regrettably for the reader, some of my recommendations are technical or may appear overly legalistic, and they do not make for good reading! Firstly, however, they are important in order to enable the House to create a process that is workable and effective. And secondly, this exercise seems to me to demonstrate the extent to which these policies are a microcosm of the cultural difficulties that pervade the functioning of the House as an employer.
209. The new Scheme introduced in July has much in it that is of value. Unfortunately the fundamental flaws that remain require me now to analyse and comment upon three separate policies, two of which I regard as wholly unfit for purpose in their current form, and the most recent of which has, in my view, been put in place without sufficient time to consider properly how it should operate, so as to deliver what it is seeking to achieve.

## **F. Complaints: Policies and Procedures**

### **F.1. Regulation of Members' Conduct**

210. Members of Parliament are required to adhere to the rules of conduct set out in their Code of Conduct, referred to earlier on in this report. Of the three main systems available to national parliaments for monitoring and

enforcing such codes, namely self-regulation, co-regulation and external regulation, the mechanism adopted in the United Kingdom is a hybrid. Through the appointment of an independent Parliamentary Commissioner for Standards, the House of Commons introduced an element of external regulation, while retaining the benefits of self-regulation.

211. Parliamentary self-regulation has traditional constitutional foundations, the judiciary recognising not only the legislative supremacy of Parliament but also, through Parliamentary privilege, the right of Parliament to manage its own affairs. Over the centuries the two Houses of Parliament have assumed the responsibility and the right to define and maintain their own standards of conduct. However, after serious public concerns about a decline in standards of behaviour, the Nolan Committee considered that a significant independent element would bolster public confidence in the ability of the House to regulate itself effectively, and the first Commissioner for Standards was appointed by the House in 1995.
  
212. The Commissioner's role includes monitoring the operation of the Code and investigating complaints of alleged breaches of the rules in that Code by Members of Parliament. However, her powers are presently circumscribed by Standing Orders, which provide for her to report to the Committee on Standards and for that Committee to retain oversight of her work. If the alleged breach occurred more than seven years earlier, the Commissioner may begin an inquiry into it only with the consent of the Committee on Standards. If the Commissioner carries out an inquiry and upholds a complaint of misconduct under the Code, and if the case is too serious for "rectification", for example by an apology, she must write a report and refer the matter to the Committee on Standards. Since 2016 the membership of this Committee has comprised seven Members of

Parliament and seven lay members, but the lay members do not have a vote.

213. The Committee considers the Commissioner's report and reaches its own conclusion on whether there has been a breach of the rules; and, if so, it may recommend to the House any sanction it considers should be applied to the Member. This may be a written apology from the Member to the House; an apology to the House by means of a point of order; an apology on the floor of the House by means of a personal statement; suspension from the service of the House for a specified number of days; or in the most heinous cases, the Committee may recommend the Member's expulsion.
214. Before July this year the policy that has been in place to address complaints by members of House staff about bullying, harassment or sexual harassment by Members is the Revised Respect Policy. However, the Commissioner's remit for investigation did not allow her to investigate any allegation of bullying, harassment or sexual harassment by a Member unless it fell within the Code definition of "*action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.*" As will be seen, this was an entirely inappropriate threshold for determining allegations of misconduct of this kind.

### **The Arrival of the New Scheme**

215. The new Scheme Delivery Report endorsed in July this year comprises a number of elements, as follows: (1) a "*statement of principle and cultural intent*" through a Behaviour Code, to apply to everyone in the "*Parliamentary Community*" (all staff employed by both Houses, MPs and their own staff and interns, those with security passes but employed by external organisations, and Peers and their staff); (2) an Independent

Complaints and Grievance Procedure (ICGP) to underpin the Code, with independent services to be procured for specialist investigations and informal dispute resolutions; (3) a Bullying and Harassment Policy; and (4) a separate Sexual Misconduct Policy.

216. A system of training is promised, to be available for everyone, to support the Code and to tackle bullying, harassment and sexual misconduct, including training on management practice. Independent reporting helplines for both complainants and respondents in respect of bullying or sexual misconduct concerns have now been published in the Staff Handbook, and a tender exercise is under way for a long-term Human Resources support service for staff employed by MPs or jointly by political parties. Workshops on management practice for MPs are to be available. The Behaviour Code is viewed as *“a tool for culture change in the House,”* addressing the acknowledged significant power imbalances in the House and improving working relationships. There is to be a *“language to challenge”* campaign to *“share advice on challenging poor behaviour,”* supported by both House Administrations, and a communications strategy has been identified for the Scheme generally. The Code of Conduct for Members has been amended, with Members now being *“expected to observe the principles set out in the Parliamentary Behaviour Code of respect, professionalism, understanding others’ perspective, courtesy and acceptance of responsibility.”*
217. The Commission agreed, in consultation with the House Trade Union Side, that these new policies and procedures would apply forthwith to all staff employed by the House. The Scheme is to have reviews, after 6 and 18 months, to monitor the progress of the new Scheme and which, according to observations in the Foreword to the report, will take into account the findings of this inquiry.

218. The Steering Group also announced that there would be a further *“independent review of historic allegations that will be open for six months to hear any complaints from Members’ staff, MPs or Peers who have experienced bullying, harassment, or sexual misconduct.”* That wide-ranging review has yet to begin and its likely duration is difficult to estimate, but the focus in this report is the position of the staff employed by the House of Commons. Having regard to the need to restore confidence and to the legal obligations owed to members of House staff by their employers, some of the recommendations made in this report need more urgent consideration than will be possible if a decision is made to wait until the first review due in January 2019, or to await the findings of that further review in addition, which is unlikely to be completed by January 2019. I strongly recommend that the recommendations in this report should be considered as a matter of urgency and certainly before January 2019.
219. In their Foreword to the Delivery Report the Steering Group described this as being *“a once in a generation opportunity to make the change needed to ensure that we all consider what we can do to promote dignity and respect.”* In a statement issued by the House at the end of July this year, it has been acknowledged that, *“We are aware that in the past the House has not had a robust process in place to deal with instances of bullying and harassment.”* And confidence was expressed in the new ICGP as meaning that allegations will now be able *“to be dealt with effectively and sensitively.”* The Behaviour Code states expressly that *“Unacceptable behaviour will be dealt with seriously, independently and with effective sanctions.”*
220. However, pending finalisation of the arrangements for the operation of the new ICGP, the Staff Handbook has now been amended (at Part I, Chapter 6, section 3) to state that the policies and procedures already in place, namely the Valuing Others and Revised Respect Policies, will

continue to operate *“as alternative procedures for the time being.”* That may take some months, given the on-going work and the procurement and tendering exercises that must take place.

221. In addition, the House endorsed the Steering Group’s proposal that the new ICGP investigation procedures should apply only to complaints about incidents that occurred after the start of the present Parliament in June 2017. The Staff Handbook now states therefore that the previous Valuing Others and Revised Respect Policies will continue to apply to complaints about allegations that pre-date the start of the 2017 Parliament.
  
222. In cases where at least one incident in a series of incidents post-dates June 2017, it appears that the complainant *“may be able to include previous incidents of inappropriate behaviour in their complaint where such behaviour amounts to a continuing act. In addition, the investigators may also be able to consider reports of allegations prior to the Scheme as evidence when considering complaints.”* However, in the case of complaints about serious incidents of bullying, harassment or sexual harassment pre-dating June 2017 where, due to failings of management and lack of support, members of staff have not previously felt able to report them, or where staff were dissuaded by line managers from bringing complaints that they did report, or where the complaints brought were not dealt with appropriately, the procedures that were in place at the time of the incident remain their only option.
  
223. Given that, in their statement issued in July, the House appears to accept that these policies do not provide *“robust processes for dealing with bullying and harassment”* this is a deeply unattractive option for those staff with historical complaints. The House is effectively requiring those whom it employs to use procedures accepted to be inadequate and ineffective for that purpose.

224. Referring to “*Pre-Scheme Cases*” at section 7 of the Scheme Delivery Report, there is recognition by the Steering Group that historical complaints generally may be up to seven years old and that the Parliamentary Commissioner for Standards can already consider such cases under the current Code of Conduct, if she considers it appropriate to do so. There was no proposal to change that procedure. However, those members of staff who have historical complaints of bullying or sexual harassment are apparently to be dealt with differently.
225. They are informed that the key to such cases is “*providing information, advice and clarity about the routes open to people and listening to and counselling individuals to support them to gain closure.*” Referring to the effects of the passage of time on the availability of evidence and quality of recollections, the report then continues “*....personal resolution is not a straightforward matter and we will therefore ensure that there will be skilled and experienced support available to help people identify what personal resolution looks like and how they might be able to achieve it.*” Those with historical complaints are to have access to the two independent helplines, now referred to in the Handbook, which it is hoped will assist them to “*achieve closure.*”
226. It is not yet clear how this service will operate, and whether those providing help will be qualified individuals capable of providing counselling services themselves, or whether staff with historical allegations will have access to other services, and whether the House will fund such services if they are recommended in individual cases. Some of those contributing to this inquiry are former members of staff with historical complaints, who are still suffering serious effects as a result of both the original alleged abuse and the lack of support and assistance from the House in dealing with it. It is unclear, at the time of writing this report, whether the helplines or access to other appropriate services are to be made available for these individuals in addition, but dealing fairly



and effectively with the failings of the past will be crucial to the success of all the measures now being introduced to change the culture of the institution and move forward. Greater clarity is required in relation to what is proposed.

227. All this recent activity and the arrival of the new Scheme now raises some serious questions over the coherence of all the current arrangements in place for dealing with these cases; over their ability to generate confidence among House staff that their complaints will be dealt with effectively; and over the independence and effectiveness of the procedures, in so far as they deal with complaints involving the conduct of Members of Parliament and complaints involving historical allegations. Issues of substance, fairness, independence, inconsistency and confusion all now risk combining to limit, rather than to increase the prospects of important internal procedures successfully addressing individuals' rights, dealing with the past effectively and meeting employment obligations. As things stand at present, I do not consider it can properly be said that unacceptable behaviour will now be dealt with "*seriously, independently and with effective sanctions,*" as the new Behaviour Code suggests.
228. I shall return to the fundamental questions of independence and effectiveness later on, but the terms of reference for this inquiry require me to assess both the previous and the existing policies and procedures relating to bullying or harassment, and to make recommendations having regard to best practice. Since all the policies remain in play, what follows is regrettably lengthier and more complex than would otherwise be required but will, I hope, fulfill that task. However, I make this general observation at the outset, which applies to any procedures put in place to tackle misconduct of this kind and therefore applies to all the policies and procedures now in place in the House.

229. Any policy tackling bullying, harassment and sexual harassment needs to have:

- an acknowledgment at its head that these forms of behaviour are problems for the House;
- a clear statement at the head that such behaviour is unlawful and will not be tolerated;
- a clear statement of commitment at the head from the senior management;
- detailed examples of the different forms of unacceptable behaviour, and a statement that bullying and harassment by staff may be treated as disciplinary offences and when such proceedings may ensue;
- the pro-active steps that the House intends to take to prevent bullying and harassment, with the responsibilities of named senior managers, managers and supervisors identified, and training programmes described, with the requirement and expectation that these are to be attended by everyone;
- assurances as to the confidentiality of reports and formal complaints and how that will be maintained;
- the various support and counselling mechanisms available with contact details clearly visible and clearly described;
- the timescales for complaints procedures clearly identified;
- the nature of report logs and record keeping explained;
- a commitment to the investigations of complaints being carried out by independent and impartial investigators with specialist expertise, in proceedings which are fair to both sides and completed within a reasonable time frame;
- a range of effective sanctions available, and published, for cases where the complaint is upheld; and
- clear information on how, when and by whom the policy is to be implemented, reviewed and monitored.

230. I begin with the policy governing staff relations. This is currently to be found in the Staff Handbook, Section 3, Chapter 6 and it is referred to as the “Valuing Others” Policy. All the policies are available on the internet for those who wish to read them in detail.

## **F. 2. The “Valuing Others” Policy**

### **Assessment and Specific Recommendations**

231. Before this policy was introduced there was apparently no formal policy dealing specifically with bullying, harassment and sexual harassment. Former members of staff spoke of increasing problems in these areas over the years, compounded by managers trying to tackle incidents without adequate advice or support. Since its introduction in around 2007, the policy has apparently been through a number of changes, and some additional specialist helplines and support services have been communicated to members of staff in recent months, but I have focused on the policy contained in the current edition of the Staff Handbook.
232. Two members of staff described using this policy successfully to deal informally with complaints of bullying, both people praising the prompt advice and assistance of their managers as instrumental in the success of this process. Most contributors, however, confirmed the views of senior managers that staff are simply not using it. The information they provide indicates that its use has been hampered by one or more of the following factors: a lack of awareness and understanding of its terms, both by staff who have been bullied and by their managers; a lack of confidence in the convoluted processes it describes; the active discouragement of its use by some managers; and a real fear among staff that they risk losing their job if they complain, *“I took out a complaint, but I knew this was the end for me”.....“I love my job and I knew if I officially reported X’s behaviour I would make staying in my current role very difficult and would suffer*

*more stress.*" This fear appears to be widely held. It is a real barrier to progress in tackling bullying at work.

233. Information from the HR Service is that despite an increase in 'Valuing Others' complaints in recent times, including some references to *"negative management behaviours"* there have been no findings in external investigations of bullying and harassment in any of the complaints brought over the last 4-5 years. This sets alarm bells ringing when considered against the background of the contributions to this inquiry, and the frank acknowledgment of senior managers that they are aware that bullying and harassment has been going on.
234. Those contributors who have tried to use the procedure complain of the following problems: the delays inherent in the formal procedures and the unacceptable length of time it takes to achieve a resolution, delays of more than nine or twelve months being referred to; the *"variable degrees of expertise and understanding"* among external investigators; problems with maintaining confidentiality, *"everyone knew about it, I was mortified;"* the bringing of trumped up disciplinary charges against the complainant in the middle of the process; and the *"default response being just to move someone on to another post whatever the outcome.....You have to be strong and determined to see it through, most people just give up and leave. And there is no oversight. No one higher up is saying 'what on earth is going on?'"*
235. The criticisms of this policy therefore encompass substance, visibility accessibility and implementation. In my view it requires extensive and substantial amendment. In its present form it does not provide either an accurate summary of the legal position or an effective policy for dealing with bullying, harassment and sexual harassment occurring within staff relations.

236. The first oddity about the policy is its name and location. The name “Valuing Others” does not adequately explain its purpose or reach, and it appears at Chapter 6 in Part 1 of the Handbook, which is headed “*Equality and Diversity*” and which is dealing generally with the House diversity and inclusion policies. The second, striking feature is its inordinate length, having some 68 separate paragraphs, many of them with sub-paragraphs. The same criticism applies with equal force to the grievance procedures in Chapter 21 of Part 5. They are too long and too prescriptive, and as one senior manager observed, “...*they were clearly written by someone who had no experience of operating policies in any environment.*” They may lead to some sterile debates over process and whether, for example, there has been compliance with paragraphs 6.12, 6.16 bullet point 3 and 6.18 bullet point 5, but procedures in this area should above all be accessible, workable, clear and fair. All those aims are defeated by prolixity and complexity.
237. For as long as this remains in place as the policy for staff to use, it needs to be completely re-cast as an anti-harassment and bullying policy, in a stand-alone position in the Handbook, and the procedures need some vigorous pruning. Any procedure in this area must be fair, but it must also be workable. There is a balance to be struck between vague “management guidance,” which lacks transparency and is open to abuse, and a complex series of convoluted hoops leading to sterile and time-consuming debates about process, which ultimately serve nobody’s interests.
238. The definitions of both bullying and harassment at paragraph 5 need to be re-visited, having regard to the principles set out earlier in this report. There needs to be an accurate definition of harassment based on the three different forms set out in section 26 of the Equality Act 2010. And under section 26 the individual does not have to possess the protected characteristic in order for the definition of harassment to be satisfied, as

currently suggested in the second sentence of 5.1. Unwanted conduct may, for example, be directed at someone because they are perceived to possess a protected characteristic, or because they are associated with someone who possesses it.

239. Similarly, the wording in para 5.2 does not accurately reflect the legal definition of harassment, and use of the terms “unjustified” and “unreciprocated” to describe the conduct cause confusion. Reciprocation may be some evidence that conduct was not unwanted, but it is not itself the key test. Use of the word “unjustified” suggests that there may be a justification defence, but unwanted conduct of this kind cannot be justified. If the purpose is to explain that managers who are undertaking appropriate and properly conducted performance management procedures will not be harassing someone, then that needs to be more clearly explained. And caution is required in this respect, having regard to the reported abuse of performance management procedures referred to earlier on in this report. Finally, the seriousness of an isolated incident may be an indicator of whether that incident amounts to unwanted conduct or not, but it is not the sole measure. If X has subjected Y to unwanted conduct, then if that conduct had the purpose or effect of violating Y’s dignity and Y’s perception of the conduct was reasonable, it will be harassment, regardless of seriousness.

240. At para 5.5 one of the examples of bullying behaviour is said to be “victimisation,” but this is an entirely separate category of unlawful act under section 27 of the 2010 Act, as set out above. Given that the fear of victimisation for speaking out is recognised as one of the main barriers to reporting harassment, and that fear of victimisation for reporting or complaining about bullying and harassment is a striking feature of the contributions to this inquiry, it should be addressed in a separate section of the same policy, and defined in accordance with the wording of section 27.

241. Caution is necessary in relation to paras 5.7 and 5.8 dealing with “unfounded, malicious or vexatious complaints,” and thought should be given to amending the current wording. Bringing disciplinary proceedings against someone because they make a complaint of harassment “*without sufficient foundation*” will be an act of victimisation unless it can be demonstrated that the complaint was made in bad faith. It is unwise to use the phrases “without sufficient foundation,” or “without foundation or substance” in this context. And many acts of verbal harassment take place behind closed doors, as suggested by the information given to this inquiry. Such phrases could deter complaints from people who have no evidence other than their own statement to support an allegation. And a complaint will not be made in bad faith merely because it has previously been resolved. Bringing disciplinary proceedings against someone who raises an historical complaint of harassment in good faith because they believe that it was previously dealt with badly by management could amount to victimisation.
242. The advice for dealing with negative behaviours at para 5.9 emphasises speedy resolution, and in those cases where it is appropriate to step in quickly and nip it in the bud, that is of course desirable. However, cases will vary in their complexity and seriousness. The advice should explain that sometimes a speedy resolution may not be possible and that an interim solution may be required pending resolution.
243. One of the frequent complaints in this inquiry has been the removal elsewhere of the person reporting or complaining about the misbehaviour, either before or after resolution. If the complainant suffers detriment as a result, that too can give rise to a complaint of victimisation. In some cases, transfer or suspension of the alleged perpetrator may be more appropriate, and careful thought should be given to that and how to incorporate it into the policy.

244. At paras 5.10 and 5.11, too much emphasis is placed on the individual complainant as having the responsibility to look carefully at the definitions of bullying and harassment and to decide whether the treatment that has upset them falls within those definitions, or whether it is just *“normal and acceptable workplace disagreement.”* The first step should be for them to raise it informally with the appropriate person and to discuss with them the nature of the behaviour and what may be the best route to a resolution in all the circumstances.
245. Paras 5.12 – 5.16 set out the categories of support and advice available both for individual complainants and for those alleged to have bullied or harassed someone. The first in the list is the individual’s line manager. The House policies generally place considerable reliance on complaints, grievances or concerns generally being brought first to the attention of the line manager as *“the best person to take these problems to initially.”* If the line manager is the person alleged to be bullying or harassing the individual, and that was the case in many of the contributions to this inquiry, the advice is to speak to the next person in the line management chain.
246. However, that advice assumes a level of competence, responsibility, impartiality and judgment on the part of line managers and the next manager in the chain, which is not always present, as the information provided to this inquiry has so vividly revealed. The acknowledged existence of significant deficiencies in this respect is a real barrier to the operation of any procedures which have line management responsibilities at their heart. That is obviously a wider problem needing to be tackled at a more fundamental level, but until it is the emphasis on informal resolution and line management as the first port of call for anybody targeted in this way needs some readjustment. And that applies wherever line management responsibilities are built into the procedures.



247. The next names in the list are the “*Harassment and Bullying Contacts*” (HBCs), described as “*volunteer members of staff who have been specifically trained in working with cases of harassment and bullying,*” whose contact details are said to be available from the HR Advisory Service, and who are said to be able to offer support and advice on all the options. This sounds an admirable initiative, and I am told that some people have spoken to an HBC over the years, but most of those contributing to this inquiry were unaware even of their existence, including people who had recently worked in HR. And none of those contributing had ever been advised to contact an HBC or given anyone’s contact details.
248. I understand that this was an initiative introduced some years ago, and that around 12-15 members of staff volunteered, were appointed and had some initial training on bullying and harassment, though not on sexual harassment. However, the HBCs have always operated on an individual basis. There has been no monitoring of the system so as to assess its use or success, or to enable reports to be followed up or to enable identification of potential problem areas, or problem individuals in the House. Over the years, some HBCs have left the House or have been unable to continue for a variety of reasons, and they have not been replaced. The numbers have therefore dwindled to a number too small to have any impact and no refresher training has been provided.
249. I accept that from time to time other “*on trend*” initiatives may come along, and that “*coaching,*” for example, will attract HR time and attention, but that will inevitably disadvantage an initiative such as this. If HBCs are to be retained and to operate as the policy presently indicates, then there need to be many more of them and they need to be properly supported and regularly trained to do what is asked of them. And the scheme must be regularly monitored to assess its impact and usefulness.

250. Similar problems of visibility and accessibility apply to the “*Welfare Officer,*” said to be able to offer “*confidential support and counselling for both parties.*” And there were mixed reviews as to the value of the help given by some representatives of the trade union side and by some HR advisers, who are the other sources of support and advice appearing in the list.
251. The Welfare Officer service referred to forms part of the Parliamentary Health and Wellbeing Service, described at Chapter 5 of the Handbook as providing a “*professional, independent advisory service to management and staff,*” and offering “*specialist advice on all aspects of occupational health and welfare in the workplace.*” A number of contributors had sought help, including counselling help, from that service in relation to anxiety and depression caused by incidents of bullying and harassment, and there was praise for its compassion, support and professionalism, as far as it went. However, the waiting time for access to counselling services has been far too long, there is concern as to whether those working in occupational health have maintained a sufficient degree of professional separation from HR, and the level of follow up has generally been poor. Staff seem to be unaware of the exact nature of the services provided or how best to access them.
252. The criticisms levelled at this service at present are that it is overworked, under resourced, under promoted and undervalued by the senior administration. This is regrettable. A service of this kind is becoming increasingly important in the workplace and its work deserves to be expanded and promoted. In my view it merits a much greater visibility in the House and greater support at senior management level than it has received hitherto. The absence of a Health and Wellbeing Strategy for the House is a curious deficiency, which could be readily corrected, and would mainstream the service, emphasising the importance of its role and integrating it fully into the current strategic People Programme.

253. The availability and quality of the internal support mechanisms identified in the policy therefore appear to be sporadic and variable. To tackle bullying and harassment effectively, this is simply not good enough. Advising people in written policies to seek support and as to where they may find it is important, but for the policies and initiatives to work they have to be taken seriously and be properly promoted and resourced. And the advice has to be accurate. External advice is said to be available from the Equality and Human Rights Commission, but the EHRC does not operate a helpline advice service. Such a service is provided by the Equality Advisory Support Service, who may refer cases to the EHRC for action if considered appropriate.
254. In recent months staff have been told about access to counselling services provided by Health Assured, and given contact details for various specialist external sexual harassment or sexual violence services and for the dedicated House police team. Recent amendments to the Handbook, at paragraph 3 of Chapter 6, now incorporate reference to the new Scheme and to the Independent Sexual Misconduct Advice and Bullying and Harassment Helplines. There has therefore been a recent flurry of activity in relation to help and support services for staff. However, if internal support services are to work as intended, they must all be properly supported and resourced.
255. The complaints procedures under the Valuing Others Policy are set out at para 6. The emphasis is on informal resolution, but the responsibility is placed first on the individual complainant to take the initiative in dealing with bullying or harassment including, where they feel able to, raising the issue directly with the person against whom the complaint is made. This will not always be appropriate and the emphasis needs some readjustment. Informal resolution is to be supported where it is appropriate but in some cases, including any more serious case where disciplinary action may be warranted, informal resolution is not at all

appropriate. There should be an option to move straight to formal action where the individual, or those advising them, feel that it is not possible or not appropriate to resolve the matter through informal action.

256. The next step contemplated before any formal process can take place is mediation, dealt with at paras 6.9 to 6.11. However, mediation is more likely to be appropriate in resolving issues between employee and employer where, for example, a member of staff is dissatisfied with her manager's response to her complaint. In relation to complaints of bullying or harassment, mediation is only likely to be an appropriate form of resolution in those cases involving minor incidents, and it would depend on the perpetrator having accepted that what they said or did was unacceptable. It is generally very difficult to use mediation in any case of sexual harassment, or in cases involving more serious bullying or harassment. And the statement that mediation "*can only be used if both parties .....recognise that they need to make changes to their own behaviour*" is simply not appropriate in cases of harassment.
257. The formal external investigation procedures at para 6.12 are preserved only for: a single incident which could be described as gross misconduct; cases where the behaviour is repeated; cases where internal efforts at resolution have failed; or otherwise "*at the discretion of the Head of the HR Advisory Service.*" Further thought needs to be given to the wording of these paragraphs, having regard to my previous observations about informal resolution. In addition, if an individual feels that an incident of bullying is sufficiently serious to warrant disciplinary action, but not serious enough to amount to gross misconduct, they should be able to pursue a formal complaint, but they cannot presently do so given the wording of para 6.12.

258. The relevant factors to be taken into account by the Head of the HR Advisory Service 'in the exercise of their discretion' should be explained, in the interests of transparency and coherent decision-making.
259. For the reasons given earlier, I consider it unhelpful, in the paragraph dealing with the duties of the external investigator, to highlight their duty to advise the House if they suspect that a complaint is unfounded or vexatious. It places an unwarranted emphasis on the bona fides of the complainant in what will often be a tense and stressful process for both sides and could potentially discourage complaints. It is also entirely unnecessary. Any competent external investigator worth their salt will know how to conduct such a hearing and what to look for in deciding the facts. Clearly, all those instructed to undertake external investigations should be skilled in handling cases involving bullying, harassment and sexual harassment, which require specialist expertise and experience.
260. In relation to the various steps identified in the procedure, I offer the following observations. The line manager of the alleged perpetrator is unlikely to be impartial, as contributors to the inquiry have pointed out. It would be advisable for someone independent of either party to be appointed as deciding officer (para 6.16). In terms of the possible solutions identified, coaching or training for the complainant in a sexual harassment complaint is rarely going to be appropriate, especially if the complaint has been upheld (6.34). The appeal procedure may need some adjustment. The ACAS Code of Practice on disciplinary and grievance procedures provides that an appeal hearing should be arranged where an appeal is lodged, without the need for any intermediate permission to appeal stage (para 6.38). Finally, as regards para 6.39, some thought should be given to the role of the Head of the HR Advisory Service in deciding, after an appeal is granted, whether there has been a breach of procedure. That person is already extensively involved in the process at earlier stages and it is inappropriate for anyone involved in implementing

the procedure to be asked to decide whether there has been a breach of that procedure.

### **F.3. The “Respect Policy” and its Revision**

261. Until 2011, when the first Respect Policy was introduced, there was no formal or transparent mechanism in place for preventing or dealing with the unacceptable abuse of House staff by Members of Parliament. When bullying or harassment occurred, the method of dealing with it depended on the willingness of senior managers to speak to the Members themselves, or on complaints being directed through the “usual channels,” involving “*a quiet word*” behind the scenes with the appropriate person in the Whip’s Office, or if necessary with the Speaker. Such methods may have stopped the repeat of such misconduct on occasion, but the lack of transparency and accountability and the fact that it neither prevented nor penalised such behaviour was eventually acknowledged to be unsustainable.
262. The Whips are not equipped for such a role in any event, and nor should they be expected to fulfill it. Appointed by each party to “help organise their party’s contribution to parliamentary business” as the UK Parliament website expresses it, it is difficult to conceive of a less appropriate person to be charged with the task of dealing with an allegation of bullying or sexual harassment against a Member. The traditional view of the whip as the backroom fixer and silent enforcer of discipline, the gatherer of intelligence on Members, armed with a lethal cocktail of incentives and ‘punishments’ to be used as appropriate, may now have been replaced, as is suggested, by a gentler focus on persuasion, appeals to loyalty and more pastoral care, as required. But leaving aside the absence of any relevant expertise to handle these issues, the fact is that the political context in which they work and the

inevitable tensions and conflicts that can result, render them wholly unsuitable for a role of this kind.

263. The 2011 Respect Policy, introduced expressly to “*protect staff of the House Service from 3<sup>rd</sup> party harassment*” was hopelessly flawed. There is no need to refer to its provisions in any detail because that now appears to be accepted. It did not deal specifically with sexual harassment. It relied primarily on an informal process involving direct action by the individual or their line manager and moving, only if that failed, to a more formal procedure to be run internally by a senior manager as Nominated Director, and escalated to the Whips or the Speaker if necessary. However, it is accepted that those nominated “*were neither experienced nor trained in dealing with such complaints, or able to make good judgments;*” there was no obligation on Members to cooperate with any investigation; no obligation on the Whips to accept the Director’s conclusions; and no provisions for any formal sanction. Nor was there provision for any appeal by Members who were criticised. Further, it was to apply only to bullying and harassment occurring after its introduction and was not retrospective, ruling out of account any earlier allegations or patterns of persistent misconduct over time.
264. Trades unions and others in the House regarded the policy as completely inadequate at the time, and those involved in the drafting felt frustrated, “*it was really disappointing, we all felt it should have been better, but the original drafts kept being diluted and the Commission kept saying ‘the Members won’t wear it’*”..... “*We kept having to tone it down to make it palatable for the Members, right from the start it was about what the Members would be willing to agree to rather than what they needed to know to address their behaviour,*”..... “*At one of the roadshows to introduce it, a member of staff said ‘it’s toothless, what can we do to enforce it?’ and they couldn’t answer her.*”..... “*There were major difficulties in persuading Whips and other politicians to go as far as they*

*had. The policy was therefore a compromise.”* The result, however, was a policy which neither fulfilled its stated aim nor discharged the obligations to staff owed by the House as their employer.

265. The death blow was delivered by the fact that, although agreed by the Commission, this policy was never endorsed by the House itself. And in November 2012 the Commission decided to suspend the formal part of the procedures, which had proved unworkable. Many members of staff described a general disengagement at this point, *“we saw what happened to anyone who tried to use Respect and we knew it couldn’t deliver. It wasn’t worth the risk.”* Staff lost confidence in the whole process. And until the introduction of the revised policy in July 2014, the only protection afforded to staff was via its informal mechanisms. This was obviously unacceptable.
266. Revising the policy, eventually introduced in July 2014, was an extremely difficult exercise. The negotiations proved intractable and those involved still bear the scars, *“the whole process was tortuous and once again it was governed throughout, not by decisions as to what was right, but by considerations of what Members would be prepared to accept.....It seemed to be taken for granted that no effective sanction could be imposed on any Member for bullying a member of staff except by the House itself, through the Committee on Standards.”*
267. The revised policy now has four stages rather than two. Once again the emphasis is on informal resolution, stages one and two providing for *“raising the issue”* directly, possible external mediation and then a formal grievance process to be conducted by the Senior Responsible Officer (SRO) or nominated Head of Department. The revised policy had a *“far greater emphasis on management ownership of the policy”* with line managers being required to *“take their responsibilities seriously.”* Plans for a *“comprehensive House-wide training programme”* were announced.



268. If attempts at informal resolution fail, then the complaint can be considered at stage three by the Parliamentary Commissioner for Standards. At this stage *“The Commissioner will consider whether the complaint is within her remit and whether there is sufficient evidence to justify an investigation by her. This involves her considering whether the Member concerned has behaved in such a way as to breach the MPs’ Code of Conduct and that such a breach is sufficiently serious to cause significant damage to the reputation and integrity of the House as a whole or of its Members generally. In practice, the Commissioner could only be expected to investigate either complaints that there had been a single very serious incident, or complaints involving repeated incidents or a sustained and damaging pattern of behaviour. She would not be concerned by a complaint of a brusque response in a highly charged political situation.”* (para 9.3.)
269. If the Commissioner accepts a complaint for investigation she is required to conduct one confidentially in accordance with stage four. She will then (a) dismiss the complaint; or (b) consider, if she concludes that there may have been a breach of the Code, whether the matter can be resolved through rectification, such as an apology; and (c) if not, report the facts and her conclusions to the Committee on Standards. The Committee will then decide on *“the appropriate course of action,”* and if appropriate will report to the House *“under its normal procedures,”* which are subject to parliamentary privilege.
270. The threshold to be crossed before the Commissioner can even consider a complaint, linking her involvement to paragraph 17 of the current Code of Conduct, is an extremely high one. The guidance given by the Committee on Standards in relation to her investigations states at paragraph 2(iv), *“This is a very high hurdle, which the Committee expects to be met only in extreme and extremely limited circumstances.”* In their first report on the revised policy, published on 10 June 2014,

recommending that it be endorsed by the House, the Committee described it as a policy which was fair to all parties given the role of the Commissioner, *"...who is independent of both House management and of Members. Her fixed term, non-renewable contract acts as a safeguard of that independence in all her investigations, however sensitive."*

271. However, the expectation was clearly that the Commissioner would rarely be troubled. *"If the new policy is effective, complaints should be resolved at an early stage. Indeed, it is possible there will be no role for the Parliamentary Commissioner for Standards and the Committee on Standards. Nonetheless, there needs to be an effective mechanism in place to deal with serious problems. The partial suspension of the current Respect Policy has left the House without such a mechanism for a significant period."*

272. The House accepted the recommendations, endorsed the policy and asked the Commission to review its operation in the next Parliament. Like its predecessor, this revised policy is not retrospective, enabling consideration of complaints only in respect of bullying and harassment occurring after its endorsement by the House in July 2014. Some written guidance and some initial training for managers and staff was provided, but it is clear from the contributions to this inquiry that the policy was doomed from the start. *"The training focused entirely on the staff. We asked 'what training are the Members getting' but we all knew the answer was none."..... "And the training we had was all about helping us to be more resilient, how to cope with the bullying and harassment without flinching, not how to call it out and complain." ..... "The idea that senior management would back us if we complained was laughable, it was never going to work. No-one trusted it."*

273. I'm afraid that the Revised Respect Policy badly fails the test it was set. It is simply not an effective policy for addressing the bullying, harassment or

sexual harassment of members of staff by Members of Parliament. Despite the view of some contributors that “*the reality is that Members will not tolerate anything else,*” reliance upon this policy as discharging the duty to ensure the safety and dignity of those employed in the House, and as ensuring the highest standards of conduct of Members of Parliament is sadly misplaced. There are serious issues of substance, which I shall deal with first, but there are two fundamental concerns, namely the lack of independence in the procedures dealing with such misconduct by Members, and the inability of the policy to address historical patterns of such behaviour. And regrettably these concerns apply to the new Scheme in addition.

274. The overwhelming majority of those contributing to this inquiry consider that the fundamental problems with the Respect Policy have always been as follows: the lack of retrospective effect, preventing consideration of any misconduct before its introduction; the “*ludicrously high*” threshold to be crossed before a complaint can even reach the Commissioner; and the lack of independence in relation to the making of findings on that complaint, or in deciding on an appropriate sanction. The independent Commissioner must refer cases where she considers there may have been a serious breach of the rules to the Committee on Standards, who sit in judgment on the Member concerned, decide whether there has in fact been a breach and what, if any sanction should be imposed.
275. Under the new Scheme the threshold has now gone, but serious concerns as to independence and retrospectivity remain, calling into question the effectiveness of the new procedures, which some have described as amounting only to “*Respect-Mark-3*”. Any finding or sanction in respect of the conduct of an MP, following a complaint under the new independent procedures, must yet be ratified by both the Commissioner for Standards and the Committee on Standards. The decisions taken are

therefore ultimately decisions by Members alone voting on the conduct of their colleagues.

276. And unless complaints of historical allegations of abuse are properly dealt with, they will constantly dog the new Scheme, hinder the culture change it seeks to promote and continue to serve as a poignant reminder of the previous failures by the House to provide earlier effective opportunities for complaint.
277. The importance of these issues to both Members and staff, and to the reputation of the House as a whole, is beyond dispute. And they must be resolved if this really is to be the *“once in a generation opportunity to make the change needed”* that the Steering Group describe, and if the recent reforms are truly to have value, the mistakes and failures of the past are to be acknowledged and corrected, and the confidence of staff and the wider public alike are to be restored. I shall return to these issues later on when I consider the new Scheme.

#### **The Revised Respect Policy**

#### **Assessment and Specific Recommendations**

278. In relation to substance, the Revised Respect Policy suffers from the same problems as “Valuing Others” in relation to length and prolixity, some senior managers acknowledging that there are *“too many gateways to pass through before a complaint can get to the Commissioner.”* There is no specific consideration of sexual harassment, and there is acceptance at senior level that *“it is not adapted to deal with such cases.”* The definitions of bullying and harassment need once again to be revised, so as to accurately state the law, and to identify victimisation as a separate unlawful act. The definition section in this policy is even briefer than that in the Valuing Others policy.

279. The prohibition on anonymous complaints (para 3.4.) needs to be reconsidered in the light of current thinking. The EHRC has recommended the development of anonymous complaints mechanisms for harassment, regarding it as a valuable tool in addressing harassment in larger organisations and in the regulated professions. They are right to do so. Such mechanisms enable employers both to facilitate safe reporting and to develop a picture of a person's pattern of behaviour. Anonymous complainants can be informed in cases where there have been multiple complaints, and asked whether they wish to make a formal complaint alongside others. In their recent report, "Turning the Tables," the EHRC refer to the work being done by the Ministry of Justice with the organisation "Safely Spoken" to develop support for employees in reporting abuse, using an online tool based on the Callisto Project. This is a helpful initiative, which merits careful consideration.
280. There is once again far too great an emphasis in this policy on informal resolution and mediation. Such methods will in some cases be inappropriate, for the same reasons referred to in relation to the Valuing Others policy (see above). For more serious cases, the involving of senior management in the required grievance process for complaints about Members is inconsistent with the necessary elements of expertise and of independence in resolving such grievances. And the suggested line management involvement and support at the earlier stage is hampered by the same disadvantages as those already referred to above, in terms of current levels of capability and competence.
281. Under this policy, where the allegation is being made against a Member of Parliament, the imbalance of power between the complainant and the alleged perpetrator is that much greater, and it is wholly unrealistic and unreasonable to require individual employees to try to resolve the matter themselves in this way. Some contributors to this inquiry regard the repeated emphasis on informal resolution as almost amounting to

improper pressure on them to try to resolve what are already very difficult and stressful situations. *“The focus should be on what the member of staff’s views are, not what is thought to be in ‘everyone’s interests.”*

282. The notion that the Commissioner for Standards should only become involved in ‘extreme and extremely limited circumstances’ is unacceptable in a policy addressing allegations of abusive conduct against Members of Parliament. Linking it to the broader concept in the Code, of damage causing significant damage to the reputation and integrity of the House as a whole or of Members generally, is completely inappropriate. The recent amendment to the Code, requiring Members to observe the principles in the new Behaviour Code, would indicate that this is now accepted.
283. The focus in any policy addressing abusive conduct should be upon determining the most appropriate method of resolving a complaint in each individual case. And the list of alternative scenarios said to require the Commissioner’s involvement ought to cater for a wider range of incidents between those identified in the policy.
284. Finally, in relation to holding a hearing, rather than it being a matter of discretion for the Commissioner the expectation should be that a complainant always receives a hearing, so that the full details of the complaint and all the nuances of the described behaviour can be properly understood. Complaints involving bullying, harassment or sexual harassment are rarely black and white. There may be grey areas and nuances of behaviour, which those charged with investigating such complaints need to be sensitive to and trained to understand. It is necessary to have regard both to the perception of the complainant and to all the other circumstances, including the conduct and point of view of the alleged perpetrator and of any witnesses to what occurred.

285. A clear indication of the ineffectiveness of this revised policy appears from the extent to which it has been used. Since its introduction in 2014, no complaint has ever reached the Commissioner. Nor has any complaint of sexual harassment been pursued. Information provided to this inquiry is that during its two first years of life there were around nineteen complaints, brought by staff from several different teams, all brought under the informal procedures, and that the numbers of complaints have dwindled since then. One of them involved a complaint against a member of staff directly employed by an MP, also covered by the policy. However, senior management frankly admit that none of the complaints against Members involved more serious or sustained bullying or harassment of the kind now described by staff contributing to this inquiry. They admit too that the policy *“is not equipped to deal well with such cases.”*
286. All these earlier complaints involved *“flashpoint”* incidents, such as outbursts of temper or abusive language, for which a verbal or written apology was given in most cases. In those cases where no apology was forthcoming, the complainant chose not to take it further. The assertion in the House statement issued on 9 March that the complaints made under this policy had been *“resolved to the satisfaction of the complainant”* must therefore be understood in that light. The absence of complaints in respect of more serious abuse is illustrative of the lack of confidence in this policy expressed by staff, *“Where are the sanctions? There aren’t any, complaining is pointless,”* and of the limited impact the policy has had on preventing or dealing effectively with such behaviour by Members. A short, internal review of the policy in late 2017, which the Commission asked to be *“light touch,”* revealed none of the dissatisfaction now voiced by so many members of staff, and candidly acknowledged as valid by some senior managers.

### **Conclusion regarding “Valuing Others” and “Respect” Policies**

287. In conclusion, the clear picture that emerges from the information provided is that both the “Valuing Others Policy” and the “Revised Respect Policy” have failed in their task of ensuring that the safety and dignity of members of House staff are respected and protected. They have failed too in providing staff with an effective means of dealing with instances of abusive conduct when they have occurred.
288. The prospect of a new Scheme was therefore greatly to be welcomed in principle, because it would demonstrate recognition by the Steering Group, and by the House as a whole if it was endorsed, that change was both necessary and long overdue. However, the questions now are whether the new Scheme that has been introduced can fulfill its aims in practice, whether it can assist in bringing about the “*urgent and essential change*” required in workplace culture, and whether it can ensure that the House of Commons meets “*the highest ethical standards of integrity, courtesy and mutual respect.*” The fundamental concerns as to its independence, and as to how the House proposes to deal with historical allegations where the complainants do not have access to this Scheme are central to those questions.

### **F.4. The Independent Complaints and Grievance Scheme Delivery**

#### **Report: July 2018**

#### **Assessment and Specific Recommendations**

289. There is much to be welcomed in this new Scheme, reflective of the careful attention paid to current good practice in these areas. The development of a code of behaviour, bullying and harassment and sexual misconduct policies, and recognition that sexual harassment is a separate and distinct form of harassment are significant improvements. So too are the following: the introduction of anonymous reporting to the helplines



for monitoring purposes; the stated intention to provide greater support for those wishing to pursue complaints; and recognition that unfounded complaints should not be conflated with malicious complaints. The tendering process for both the specialist investigation and dispute resolution services is apparently under way and the independence of those services is a significant improvement.

290. The emphasis on the use of informal means and mediation as appropriate ways of resolving complaints has been reduced, but realistically the prospect of someone who has been bullied feeling able to speak up about their treatment, as envisaged, will obviously depend on the extent to which there is a real change in the culture presently operating in the House. The "*language to challenge*" campaign will be important, but it will require clear commitment at the senior levels if it is to be effective.
291. Given these obvious improvements, it is a matter of regret that serious concerns as to how complaints of historical allegations are to be dealt with, and as to the lack of independence in procedures involving Members of Parliament, are serving to damage the prospects of success for this new Scheme, in generating staff confidence that their complaints will be dealt with fairly and impartially, and in restoring public confidence.
292. I shall deal first with the contents of the Scheme and the proposals for its implementation. In general terms, the comments I have already made, both in this section of the report and throughout the report, may be of some assistance when the Scheme is reviewed, in terms of considering improved content and wording in some areas. I don't repeat all those observations here, but I have some additional specific comments as follows.

293. The Bullying and Harassment Policy at Annex B should also contain a separate section on victimisation, to bring it into line with section 11 of the Sexual Misconduct Policy at Annex C. And it would be helpful for the definition of victimisation under section 27 of the Equality Act to be outlined at section 11, to set the prohibition on victimisation in context. At para 4.1 of Annex C, the definition of harassment should be improved by setting out more clearly the definitions of sexual harassment in section 26(2) of the Equality Act, and less favourable treatment because of rejection of or submission to sexual harassment in section 26(3). This would serve to set the context for the examples which follow in the final sentence. At sections 4 and 5 it would help to explain that unwanted conduct does not have to have the purpose of violating a person's dignity, and that it is the perception of the individual that matters.
294. More significantly, it is unfortunate that no thought appears to have been given to the gender dimension of the bullying behaviour to which I have referred earlier on in this report. It is expressly acknowledged in the Sexual Misconduct Policy (Annex C, page 77) that more women than men are affected by sexual misconduct, and that the various protected characteristics under the Equality Act may intersect with each other in ways which create specific issues, such as racialised sexual harassment. Under the Bullying and Harassment Policy someone's identity is recognised to be an aggravating factor and as potentially relevant to sanctions (Annex B, para 6.3). But there is not as yet any recognition of gendered bullying, which has been such a clear feature of the behaviour described during this inquiry. Both gendered bullying and intersectionality may well be relevant to the investigations of complaints under this Policy and it would be helpful for this to be referred to expressly in the Scheme.
295. I also recommend a change to the right to be accompanied, provided for in relation to hearings. A complainant and a respondent may presently

bring a colleague from the Parliamentary Community, or a trade union representative. Otherwise, representation is said to be at the discretion of the independent Case Manager. However, as disclosed in the information given to this inquiry, the importance of these proceedings and the issues that can arise may in some cases justify legal representation. Certainly, if legal representation is permitted for the respondent in any case, and that may well happen if the respondent is a Member, fairness and equality of arms would justify this entitlement also being extended to a complainant, and it ought then to be dealt with as a matter of right, not of discretion.

### **Confidentiality**

296. The decision to make the investigative stage of the process confidential is to be welcomed, if that is what the complainant wants. One of the recurring themes in this inquiry has been the acute distress caused to some people by the failure to maintain confidentiality in the complaints process. In these cases, where the complainant objects to publication of the nature of the allegations and of the alleged perpetrator, confidentiality should be maintained throughout the process. The interests of the individual complainant and the right to respect for their private life should be paramount.
297. However, where no objection to publication is raised, the retaining of confidentiality of the investigative proceedings should in my view depend on the stage of the process reached and the nature of the allegations. Confidentiality should be retained in all cases until a decision has been made that there is a case to answer and the complaint has been sent for full investigation by the independent investigator. I do not consider that a complaint which involves, for example, an alleged incident of “low level” rudeness, which is capable of being resolved informally with an apology, requires publication of the incident or the identity of the alleged

perpetrator. However, in those more serious cases, where the allegations indicate a pattern or a series of abusive acts over a period of time, or where there is a single but more serious allegation, then in my view the name of the alleged perpetrator and the nature of the allegations made should be published if the matter proceeds to full investigation. In cases involving serious or persistent abusive conduct, there is in my view a legitimate public interest in transparency and in public awareness of alleged misconduct in violation of the Code.

298. I deal below with complaints which raise historical allegations. The approach to the preservation of confidentiality in these cases should, in my view, be the same. If the complainant objects to publication, then confidentiality should be maintained throughout the process. Where no objection is raised, publication should depend on the age and/or the seriousness or persistence of the alleged misconduct. It is not possible to be more specific in this respect because I am not dealing in this inquiry with individual complaints and cannot comment on specific allegations. Allegations of a persistent course of abusive conduct over many years are likely to fall on the publication side of the line. So too would a single but very serious sexual assault alleged to have taken place, say, ten years ago. A single historical allegation of unwanted and offensive language may fall on the other side of the line. The criteria to be applied in determining the issue of confidentiality should be considered carefully, in consultation with the Commissioner for Standards, having regard to the legitimacy of the public interest in such allegations.

### **General Recommendations**

#### **Implementation**

299. A policy is only ever as good as its implementation, and this applies with equal force to all the policies and procedures in place and which are now

apparently to co-exist. Given the problems of the past, a radically different approach needs to be adopted in the House. The anti-harassment and bullying policies need high visibility, regular promotion and constant attention throughout the workplace. Tucking them away in Chapter 6 of the Handbook and on the intranet will not suffice. There need to be posters in offices, lifts and canteens, and promotional “*anti-bullying/harassment weeks*,” all drawing attention to the policies and to helplines and other available support. And targeted bullying, harassment and sexual harassment training will be essential to its success. Merely publishing policies and guidance and asking everyone to read them is wholly inadequate.

300. Accurate and reliable record-keeping will be an extremely important part of the new Scheme. A record of complaints, and of the decisions made in each case will enable patterns of such conduct to be identified and assist in the decision-making in these cases. And it will also provide data which can be used to monitor the effectiveness of the whole process. Poor record-keeping has been a feature of the criticisms in this inquiry and the systems now in place must remedy that failing.

### **Ownership**

301. The new Scheme is to apply to everyone within the “Parliamentary Community,” which is a noble aim, but it is unclear at present who exactly is to have ownership of the new Scheme and where responsibility for its success or failure will lie. Accountability is crucial. Those with responsibilities for its delivery and for monitoring its progress should be identified within the policy itself, and it is essential in this case that ownership of the new Scheme in its entirety is invested at the highest levels of the House, with the obligations for the Speaker, the Commission, the Clerk of the House and the Director General all clearly identified.

302. The Delivery Report refers in general terms to members of the Steering Group and “*senior leadership groups*” within each House acting as “*champions*” of the Behaviour Code, but greater clarity is needed as regards the individual personnel with responsibilities and exactly what those responsibilities are. Similarly, responsibility for the review process should be clarified. It is presently unclear who is to participate in that process and it will be important for staff to be included, including through the relevant trades unions, and independent external input may also be of benefit.

### **Training**

303. Training will be essential if the new Scheme is to work, and there has to be a commitment to training at the most senior levels. High quality induction and continuation training, together with rolling programmes of senior leadership and line management development training, is time-consuming and resource intensive, but it delivers. During this inquiry I identified a “*we’re all much too busy*” approach to allocating sufficient time to training, coupled with the inevitable “*no more money in the budget*” response, but “*bite-size modules*” or short, voluntary self-referral sessions are insufficient.
304. In addition to the new Scheme, for as long as the Valuing Others and Respect Policies continue to operate for both present and historical complaints, and certainly following any revisions as recommended in this report, there will also have to be continuing training provided for staff and managers, either stand-alone or as part of the new Scheme training, on how these policies are to operate and co-exist in future, who has responsibility for them and how they are to be accessed and supported. Members of staff now wishing to pursue serious complaints about bullying or sexual harassment that occurred, for example, in November 2016 or May 2017 cannot access the new Scheme and the rights of both

complainants and respondents in such cases must be properly catered for.

305. For the new Scheme, the intention is for training is to be “available” to underpin the new Behaviour Code and to tackle bullying and harassment, but it is unclear from the Delivery Report to what extent this training will be voluntary, and how often the training will be refreshed. People who really need training of this kind, addressing behaviour, attitudes and understanding others’ perspectives, tend not to volunteer or self-refer. The training should certainly be mandatory for all staff, including those at the most senior levels. And the induction sessions should be followed by regular continuation or refresher training. Implementation of the Behaviour Code should form part of every manager’s annual performance management appraisal, with appropriate rewards or commendations for steps taken to advance its impact.
306. And if it is to work, the training ought to be for everyone, including Members of Parliament. Changing attitudes and behaviours, making all who work in the House think about their behaviour and its impact, and restoring the confidence of staff in the senior administration requires nothing less.
307. Those contributing to this inquiry described very poor levels of attendance by Members of Parliament on training courses generally, even in relation to courses which they had specifically requested, on cyber security for example. The present prospects of securing a better level of attendance on training courses for the new Scheme are therefore low. The workload of Members and the obvious time constraints will, for some, render attendance at training courses unattractive on this basis alone. But there are likely to be other reasons for this poor attendance.

308. Some will be hostile to the whole concept of training, seeing it as an interference with their independence and elected status. Some will be hostile to training of this sort, questioning its value or its necessity. Some may just be uneasy about being seen to attend training courses. Members are under close public scrutiny, not least at the ballot box and in the Commons Chamber. The need to appear confident, in control and in full possession of all facts may lead some to view training as highlighting inexperience or uncertainty, and therefore as something to be avoided.
309. Similar problems used to exist among parts of the judiciary. Back in the 1970s some judges regarded any training as an interference with their independence and were implacably opposed. Others regarded it as unnecessary, or too time-consuming, or as suggesting to the public that they weren't up to the job, or as unlikely to be of any value. Such was the level of unease that the new body set up to provide such training had to be called the Judicial "Studies" Board rather than the Judicial "Training" Board, as originally intended. Fortunately, 40 years of training have brought enlightenment. The Judicial College now offers in its prospectus a wide range of high quality seminars. Judicial training generally, and in particular practical skills and ethics training, is enormously popular. Training is seen as a professional entitlement as well as a professional obligation. And an important part of that training is the sharing of good practice.
310. Members of Parliament are a diverse group of people, with different backgrounds, interests and experiences, and the skills they need to do the job well are many and varied. Tensions between interests, conscience and allegiances all add to the complexities of the important work they do. They should be better supported than they currently appear to be. Running an office effectively, employing staff, public speaking, media engagement, sitting on or chairing select committees and questioning



witnesses, working respectfully with House staff and understanding the relationships and boundaries, adhering to ethical standards and the requirements of the Code of Conduct are all matters that good training can help everyone with, taking account of needs and priorities.

311. There is little opportunity for sharing of good practice, due to the very individual nature of their role and the competitive environment in which they work. There is no strong sense of corporate responsibilities and they must wrestle with conflicting loyalties and allegiances. Regarding each Member as an individual office holder can obscure the wider collective responsibility to act. This new Scheme is for the House as an institution to own. Fire safety training is mandatory for all Members, and this training should be approached in the same way. Even those Members most implacably opposed will gain from it, despite any current intransigence.

### **Effectiveness and Independence**

#### **(a) Dealing with the Past: Complaints against House Staff and Members of Parliament**

312. This inquiry has received information from both present members of House staff and staff who were formerly employed there. Some of the incidents described related to events that happened some time ago. The time span was broad, covering in the main events occurring within the last ten years, but some were even older. This is not unusual in cases involving bullying and harassment, particularly sexual harassment. For some people, the ability to talk freely and in confidence about distressing incidents that happened to them in the past may have been of some assistance. I hope that is the case. For others, the re-living of such experiences was obviously difficult and unpleasant, as I witnessed for myself.

313. Some people may decide, ultimately, that they do not want to take matters any further, but for others, what happened to them remains an open wound that time has not healed, and that time alone is now unlikely to heal. As the Clerk of the House recognised in his letter to staff of 12 March, there are *“unresolved issues over bullying and harassment, including sexual harassment, which need to be addressed.”* Many people whose experiences happened some years ago, but who had not previously reported them or pursued a complaint, or whose complaint was mishandled, were anxious to know what their options were.
314. Views commonly expressed were *“We should be given a voice....we were badly let down and there should be an acknowledgement and a genuine apology.... if someone commits an unlawful act they should be held accountable.... It’s about repairing what has been done wrong... wiping the slate clean will be a complete betrayal.”* It is difficult to overstate the strength of feeling there is on this issue. And I anticipate that there may be other members of staff who did not come forward but who are in the same position, and who have been waiting to see the new Scheme, or this report. *“Pathways for the resolution of such complaints”* are one of the matters I have been asked to consider.
315. In these circumstances, 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 re-considered.
316. It is unclear from the Scheme Delivery Report exactly why this decision has been arrived at. At section 7, the Steering Group appear to recognise the fact that *“unacceptable behaviour can have devastating long-lasting consequences for people”* and express their determination that the new Scheme should not be *“a ‘day zero’ approach that ignores the problems of the past.”* In relation to older incidents the essence of their reasoning

is at paragraph 88: *“It is incumbent on us to not raise expectations that are unlikely to be met and which may add to the distress and frustration that people may already be feeling. The unfortunate reality is that the further back in time you go the further the availability of evidence, the quality of recollection and the possibility of achieving natural justice for either party recedes. The advice we have taken from Tom Linden QC is clear that an investigation of a complaint will be more difficult the further into the past you go. That is why we have selected the start of this Parliament for the retrospective application of investigations under the Scheme.”*

317. However, there are now to be different pathways for resolution available to complainants, depending on when the events to which their complaint relates arose. Some examples of the unfortunate and arbitrary results that flow from the application of the criteria reveal their obvious unfairness.
318. A woman who has a complaint about a Member of Parliament arising from incidents occurring in July 2017 can use the new Scheme. So too can a woman who complains about a course of conduct by that Member, which started before June 2017 but continued until July 2017; and she will be able to include all the earlier conduct as part of her complaint.
319. A woman whose complaint relates to a course of conduct by the same Member but which ended in May 2017 will also be able to raise a complaint, but she must use the procedure that was in place at the time that the events occurred, namely the Revised Respect Policy which, as seems to be accepted, was an unsatisfactory policy with no retrospective effect, in which staff do not have confidence and which they will not use. If her complaint is one of sexual harassment, she is being required to use a policy which senior management accepts is not adapted to deal with such misconduct. Alarm bells should be ringing in terms of employment

obligations. It would also appear that an employee's complaint raised in July 2018 regarding events that happened in May 2017 will be barred under the new Scheme, whereas a complaint raised in July 2019, but concerning events in July 2017 will not.

320. If this undesirable state of affairs is believed to be the consequence of leading counsel's advice, then that belief is wholly misplaced and the matter can be readily corrected. The advice has been published as Annex D to the Delivery Report. Counsel was instructed to advise on whether the common law presumption against retrospective effect would *of itself* prevent the new Scheme being used to investigate complaints relating to events which occurred before the date when new Scheme came into force. His conclusion, with which I entirely agree, is that it would not, and that it is debatable whether the presumption against retrospective effect has any relevance at all in these circumstances.
321. Essentially, the new Scheme does not set any new rules or standards for Members, which did not already apply at the time when older complaints arose. The new Scheme is to be used to investigate complaints about bullying, harassment and sexual harassment, and abusive conduct of this sort has always been unacceptable behaviour in Parliament. There may not have been written policies in place expressly prohibiting such conduct, but it is obviously not the case that such conduct was acceptable among the Parliamentary Community in the past and will now be rendered unacceptable by the new Scheme. A Member who bullied or sexually harassed members of House staff in 2010, 2014, 2016 and again in June 2017 could not sensibly say that the first three occasions involved behaviour which was acceptable and permitted, but that the last one did not.
322. The law does not protect against subsequent procedural changes where the substantive standards have not changed. As counsel points out,

where procedural changes in the decision-making process occur through legislation, the presumption is that they are in the interests of justice because they will improve the quality of that decision-making. The aim of this new Scheme is to ensure better quality of decision-making in relation to complaints of bullying and harassment. Consequently, using the new Scheme to investigate older complaints would be more rather than less fair, to both the complainant and the alleged perpetrator.

323. Clearly, therefore, there is no legal bar to investigating historical complaints under the new Scheme. On the contrary, the imposition of a cut-off date is an arbitrary measure, which fails to have regard to the serious disadvantages that will result to individual employees, most of whom are likely to be women. Older employees may also be disproportionately disadvantaged by this rule, raising potential questions of indirect age discrimination. If older complaints are to be investigated, and the intention is that they are, it would be fairer and more in accord with principles of consistency and coherence to use the new Scheme for all complaints. The same applies to employees who may have older complaints under the Valuing Others Policy, which is also deficient in a number of respects and has been the subject of much criticism by staff.
324. Some contributors expressed concern that the success of this new Scheme, in terms of its operation and reputation, could be put at risk if it was to be weighed down in the first years of its life by historical complaints, which proved time-consuming and complex to resolve. But the complexities, reputational damage and necessary resources would seem to me to be magnified tenfold if complaints requiring resolution had to be determined simultaneously using separate policies, involving different personnel and timescales depending on when all the events complained about happened and whether there was a course of conduct.

325. Dismissive or inadequate treatment of a new complaint of an historical allegation of sexual harassment under ineffective policies could potentially be an act of discrimination itself. Far from sweeping away all the problems of the past, the likely problems and disputes would make things infinitely worse. A change in the culture of the institution is accepted as urgent and necessary and this is hardly likely to assist in that process.
326. Leading counsel rightly identified the real question in all these cases as being one of practicality and fairness, in terms of the ability of the alleged perpetrator to respond effectively in an investigation where the allegations relate to events that happened a long time ago. But that is a general observation regarding the fairness of investigating older complaints under any procedure, and not specifically the fairness of using the new Scheme for such complaints. The Steering Group referred to the desirability of achieving natural justice in these cases. The key question in this respect is not when the incident complained about occurred, but whether it is possible to arrive at a fair outcome in all the circumstances of the case.
327. For all these reasons I consider that there should be no cut-off date imposed for access to the new Scheme and I recommend its removal. The real issue is fairness, and how best these cases can be managed so as to be fair to everyone involved. The observations and recommendations that follow, if they are accepted, can be translated into appropriate guidance, so that everyone knows where they stand.
328. Experience in the criminal courts shows that even where the burden and standard of proof is high, many cases involving historical allegations of sexual offences proceed to a fair trial and a just conclusion. As a general principle, the response of employers to staff complaints of historical allegations should be of the same high standard as their response to

current ones. Historical allegations generally need to be investigated in broadly the same way as more recent ones.

329. If it came to light that ten years ago a senior employee still in post had committed an act of gross misconduct going to the heart of the employment relationship, had accepted bribes for example, the House would undoubtedly take action. The same approach should be adopted towards these cases. Not only do they have an equal if not greater ability to cause damage to the reputation of the House, but the person accused of bullying or harassment in the past may well have continued to treat others in this way since and may still be doing so. The allegations may not be isolated ones and other employees may be at risk.
330. However, these cases will vary in their complexity and viability. There may well be insurmountable obstacles as a result of the passage of time, though the passage of time of itself will often be more relevant to sanction than to the process of investigation. The employer needs to find out what the position is rather than make assumptions. There is a need to take stock in each case before a full investigation takes place, having regard to the wishes of the complainant and to the need for fairness to both parties.
331. The first priority will be to provide immediate support to the complainant through the relevant specialist support services now being put into place. Being listened to and taken seriously, having choice and a voice in the decision-making about their case are all essential elements. Not all complainants will want their complaint to go forward to a full investigation. Some may wish only that a record is made so that the House is aware of the allegations and better able to identify any patterns, and so that, if appropriate, action can be taken to prevent it happening again.

332. I have considered carefully whether there should be a published limitation period, requiring anyone wishing to have a historical complaint investigated to lodge their complaint within that period, and outside of which people can be told that no further historical complaints will be considered. In this case, while it is reasonable for the House to know how many such complaints they will need to deal with and to be able to allocate resources appropriately, the problems of the past militate against the imposition of a fixed period without room for a discretionary extension. There will always be cases on the margins, which will need to be considered on their merits.
333. The Steering Group rightly emphasises the need for those with older complaints to have access to skilled and experienced support, with information, advice and clarity about the options open to them. I see no objection, if it were thought appropriate, to a requirement that if, after having had access to that advice and support, a complainant wishes to have the complaint investigated, the complaint should be lodged with the investigation service within a reasonable period after that advice and support phase has ended. What that period should be will be a matter for discussion and agreement.
334. The current time limit for lodging complaints about sexual harassment with an employment tribunal is three months from the date of the incident, but the need to avoid any further delay may well justify a shorter period in these cases. I recommend that there should also be a discretion retained, to allow a complaint lodged late for acceptable reasons to be pursued.
335. For those who want their complaint to proceed to a full investigation, the complaint should be accepted under the procedure in the normal way and be considered by the independent Case Manager, who is to be the first person involved under the new Scheme.



336. Before any decision is taken as to whether it is possible to investigate the complaint, the allegation should be put to the alleged perpetrator. Not all those who are complained about always dispute everything, and a fair resolution with acceptance and an apology may be possible in some cases. A genuine apology and an expression of remorse is always important to those who have suffered abusive treatment of this kind. Obviously, support should also be available to the person against whom the complaint has been made, and that may help in achieving a resolution.
337. If the allegations are disputed, there will need to be a preliminary assessment by the Case Manager in each case before proceeding to an investigation, taking into account the following factors: **(1) The age of the events complained about.** Different issues may arise in relation to events between 2 and 4 years old and those between 8-10 years of age. **(2) The seriousness of the allegations.** The more serious they are, or where persistent or repeated misconduct is alleged, the more important it is for them to be investigated, especially if the decision is a fine one weighing up all the other factors. **(3) The extent to which evidence is still available on both sides.** Witnesses may no longer be available, or their memories may have faded over time, and contemporaneous documentary evidence may no longer exist. In some cases, it may no longer be possible to conduct a fair investigation, but in others, HR and other records may still be retained, memories may be assisted by diary entries or the like and a fair hearing may well be possible. **(4) The complainant's own wishes.**
338. Investigations in these cases can be stressful and distressing for everyone. The conduct of any investigation will obviously be a matter for the specialist independent investigator. I have commented upon the representation provisions in the new Scheme, but in general, in these historical cases especially, scheduled breaks and interviews in writing or

over the telephone may need to be carefully considered and directions given in advance.

339. Despite all these steps, it sometimes happens that the complainant decides after proceedings have started, that she no longer wants to participate in the process. That, however, should not automatically bring an end to the proceedings. Once seized of the details and the seriousness of the allegations, it may be considered appropriate that the investigation should continue to its conclusion.
340. Based on the information provided to this inquiry, there are a number of reasons why there may now be complaints of historical allegations coming forward to be dealt with, and there may be other reasons in addition. Some members of staff may have raised a written complaint some years ago but allege that it was badly handled under the policy in place at the time and that it was not satisfactorily resolved. They may wish to have their complaint properly determined under the new and fairer Scheme.
341. Some complainants may have been actively discouraged by their line managers from pursuing complaints at the time, and may wish now to have the matter resolved. Others may have been deterred from coming forward at the time because of the undue emphasis on informal resolution in the policies then in place, and the responsibility placed on them to try to tackle the problem themselves. Enabling these employees to have access to this Scheme and to have their complaints now considered properly and, if possible, investigated fairly, will undoubtedly do a great deal to restore the trust and confidence of staff and the reputation of the House.
342. There will, however, remain a cohort of individuals whose complaints about serious bullying or harassment in the past cannot now be fairly

investigated due to the failings of the past, where the previous handling of their complaints was hopelessly ineffective or deserving of censure, where they were inappropriately asked to sign Non-Disclosure Agreements or where systemic failures within the House mean that evidence was not adequately recorded or is now no longer available.

343. The older the incidents are, the less likely it is that these individuals will be able to seek redress. The systemic failures that have led to this situation have featured extensively in this report: the absence of any proper procedure for investigating complaints about abusive conduct by MPs before the Respect Policy; the absence of any formal procedure available under that policy, from its suspension in 2012 until the revised version was introduced in 2014; the ineffectiveness of the policies that were in place, for the reasons already set out; the mishandling of complaints that were brought; and the compounding of these deficiencies by the lack of protection and support given to those affected, and by efforts by managers to deter any formal complaint at all.
344. For those individuals who have been significantly disadvantaged by these failures, more damage has been caused to relationships, trust and respect than was caused by the original conduct complained about. Feelings of anger, bitterness and disillusionment remain firmly in place.
345. I have considered carefully what to recommend to the House in respect of these individuals, some of whom have come forward and provided information to this inquiry, but whose complaints could not be investigated or re-investigated as part of the terms of reference, and whose circumstances cannot therefore form any part of its findings.
346. I do not anticipate that there will be many in the cohort but some, at least, are extremely serious cases. Consigning them to oblivion is not at all consistent with restoring confidence, rebuilding trust and changing the

culture. An important part of that culture change for the future should be examining, acknowledging and learning from the failures of the past.

347. In particular, the systemic failures of the House were responsible for taking a bad situation and making it infinitely worse for those who reported this abuse. While it may now be too late to revisit the original allegations of abuse in some cases, it is not too late for the House to acknowledge the serious errors that were made in its treatment of the individuals concerned.
348. I therefore recommend 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, so that mistakes and systemic failings can be acknowledged, their impact recognised and an apology extended.
349. Such a step would, in my view, offer the most hopeful way forward from a situation that will otherwise remain unresolved, and that will continue to thwart the genuine attempts now under way to ensure the success of the recent reforms.

### **Effectiveness and Independence**

#### **(b) Complaints against Members of Parliament:**

350. The current state of disquiet over this issue reflects the increasing pressures on the system of self-regulation over the last twenty years, In research conducted in 1997 (*“Regulating the Conduct of MPs. The British Experience of Combating Corruption”, Political Studies (1997), XLV 539*),

Professor Dawn Oliver observed that it was the combination of external pressure from the media and the *“impeccable independence”* of the Nolan Committee that led to all that Committee’s recommendations for reform being implemented. Without it, she considered that *“vested interests in Parliament”* may have refused to accept that problems existed and that steps may not have been taken to address the public disquiet. She highlighted *“...the importance to the effectiveness of the system of self-regulation of external involvement, responsiveness to change and effective public accountability.”*

351. The level of public disquiet reached new levels in 2009, when information about expenses claims made by MPs entered the public consciousness. In 2015 the Committee on Standards noted in their sixth report (Session 2014-15) that *“Public trust in MPs is low”* and that *“the expenses scandal was hugely damaging.”* There is no doubt that the status and respect that derives from the right to regulate themselves remains important to Members of Parliament, and they guard it closely, but self-regulation will only work effectively where the public have confidence in it as a system that is genuinely capable of ensuring both adherence to the rules of conduct and accountability for any breach.
  
352. Members are ultimately accountable to the electorate for their conduct, and some may consider that is sufficient guarantee that they will comply with required standards of conduct. But there has been a gradual dawning that democratic accountability at the ballot box or on the floor of the House is not a sufficient or satisfactory mechanism for holding Members to account. The appointment of an independent Commissioner of Standards, the inclusion of lay members on the Committee on Standards, and, after the expenses affair, the statutory creation of an entirely independent, external organisation to set and regulate Members’ salaries, costs and expenses, all reflect a recognition that independence is

an essential requirement in monitoring and enforcing standards of conduct.

353. The aim of the Independent Parliamentary Standards Authority, in regulating MPs' salaries and expenses, is first and foremost *"to assure the public that MPs' use of taxpayers' money is well regulated."* Members may not welcome such an intrusion into their self-regulatory arrangements, but the perceived necessity for independence and transparency in any future transactions involving public funds won the day, *"Some Members hate it, they don't like anything that they don't control themselves, but IPSA is here to stay, and it works,"* was a typical observation from those contributing to this inquiry.
354. The IPSA Board comprises five members, one of whom must be a former High Court Judge. And IPSA has its own, detailed and self-contained investigation procedure for investigating complaints that a claim under the expenses scheme may have been wrongfully paid to an MP, or that a sum due to an MP has not been paid. The Compliance Officer for IPSA is an independent statutory office holder, who will conduct investigations under the published procedures, make findings and issue Repayment Directions and Penalty Notices, as appropriate. There is a right of appeal against those Directions or Notices to the First Tier Tribunal and provision for publication of the findings and Notices.
355. Clearly, the House has now recognised, entirely correctly, that allegations of bullying and sexual harassment raise complex issues, that complaints of such abusive conduct have special features requiring special treatment, and that previous policies in the House were inadequate to protect staff or to deal properly with their complaints. That is a commendable advance from the previous sorry situation. There has been recognition too that the same standards of behaviour should apply to everyone within the Parliamentary Community.

356. The vital question is whether the new procedures for maintaining and enforcing those standards in the case of Members of Parliament are sufficient to command the trust and confidence of the staff and of the wider public, or whether, as in relation to expenses claims, we have now arrived at a point where something more radical is required to deal with misconduct of this sort. I consider that point has now been reached.
357. Conduct in public life is now subject to scrutiny as never before. The expressions of outrage that followed the reports of bullying and harassment in the House of Commons testified to the serious level of public concern about such misconduct and the inadequacy of the systems in place to address it.
358. The Committee on Standards in Public Life recognised the dangers in their report in December 2017, calling for Members of Parliament *“...to show leadership in upholding ethical standards, so that their behaviour does not undermine or call into disrepute the institution of which they are part...High profile Parliamentary scandals involving a significant number of MPs, including the expenses scandal in 2008 and the sex and harassment scandal in 2017, demonstrate the immense damage done to public institutions and to public trust caused by breaches of ethical standards. Due to the high profile and representative nature of their role, MPs have a particular responsibility to uphold the highest standards of ethical conduct. They should consistently and reliably demonstrate high standards of ethical behaviour, openness and accountability, and recognise that even small lapses can have a disproportionately damaging effect on public perceptions.”*
359. The overwhelming majority of those contributing to this inquiry regard complaints about the abuse of House staff by MPs as now requiring enforcement mechanisms which are entirely independent of any political input or influence. These calls for independent and impartial procedures

for investigation and sanction are driven, essentially, by the principle that justice must not only be done, but that it must also be seen to be done, and by the belief that only such mechanisms will restore the confidence of staff and public alike.

360. Application of that principle in this context is apposite, because of the need for public trust in the system. And its application exposes the fundamental weakness in the system of enforcement for the new Scheme. Members of Parliament on the Committee of Standards will continue to sit in judgment on their colleagues in these difficult and sensitive cases. A careful analysis of all the material presented to this inquiry leads to the firm conclusion that the internal mechanisms for adjudicating on complaints in these cases are no longer tenable.
361. The need for structures that are genuinely capable of ensuring both adherence to the new requirements of the Code and effective accountability for any breach dictates a change. I agree that the need for the appearance of independence and impartiality and the restoration of confidence are the drivers for that change, but I would add a third and vital consideration, which is that any change should also command the respect and confidence of Members of Parliament. The vast majority of Members will rightly condemn the abuses of power of some of their number because of the damage it does to the reputation of them all and they will want to do the right thing. They are all entitled to a system that commands their respect and that guarantees fairness, integrity and “impeccable independence.”
362. To meet those standards and to command public trust, the essential requirement is that investigations must throughout be, and also be seen to be, carried out by someone whose independence, impartiality and competence is beyond question. They must also be carried out within a reasonable time. And they must be fair to both sides, protecting the



interests of both the complainant and the respondent, and ensuring that the process is not tainted by any political influence. At their conclusion a range of appropriate and effective sanctions must be available for those cases where a complaint is upheld.

363. In my view, the new Complaints Scheme does not meet these tests.

### **The Problems with the Present Process**

364. The Steering Group took the view, when designing the new Scheme, that the new complaints and investigation processes “*had to be constructed in a way which fitted with the House’s existing disciplinary arrangements.*” They decided that the independent Commissioner should be responsible for the conduct of the investigation process and that those carrying out independent investigations will be acting on behalf of the Commissioner, who is to “*retain oversight of the whole process.*” However, the practical effect of the 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.
365. In respect of both new procedures, for Bullying/Harassment and for Sexual Misconduct, a formal complaint against a Member will be initially assessed. If there is a case to answer, it will be passed to the Commissioner, who will be able to facilitate an informal resolution if that is possible. If it is not, she will commission an independent specialist investigator to undertake the full assessment, and she will also have oversight of that investigation. A complainant may ask the Commissioner to “review” a decision that there is no case to answer, or a decision not to

uphold the complaint, but only if the correct procedure was not followed, or if substantial new evidence has since become available.

366. However, if a complaint is upheld after formal assessment, it is to be *“reviewed by the decision-making body (e.g. via a hearing/interview under their own policies and procedures). The respondent will have an opportunity to represent any concerns they had about the investigation conducted...”* The precise nature of the procedure at this stage and the powers on a “review” are unclear, since the Delivery Report (at para 55) refers to reviews as “appeals.” In the case of Members, the decision-making body is *“the Commissioner for Standards in conjunction with the relevant committee [the Committee on Standards] for the most serious cases.”*
367. So where, after full assessment, a complaint has been upheld by the independent specialist investigator, there will first be a review by the Commissioner. If the complaint remains upheld, the Commissioner will have power to impose sanctions if she sees fit, but these are limited to *“Rectification to restore and maintain working relationships, including but not limited to an apology, behaviour agreement and compulsory training.”* Standing Order changes are proposed, to give the Commissioner *“the power to agree remedies within a framework agreed by the Committee on Standards.”*
368. If a Member resists the remedy/sanction or if their behaviour *“warrants a stronger sanction, the Commissioner will prepare a memorandum for the Committee on Standards, which will be able to recommend stronger sanctions to the House.”* These are identified as suspension, which can be recommended to the House by the Committee, or recall, the process by which an MP is to lose his or her seat, which requires compliance with the complex provisions of the Recall of MPs Act 2015. At present there is

nothing identified by way of possible sanction between those at apology level and the suspension or recall of an MP.

369. However, the Committee on Standards will also be able to *“hear appeals against a finding of the Commissioner, raised by either the responder or the complainant”* (although the complainant can only appeal on the restricted grounds referred to above). It is anticipated by the Steering Group that *“such appeals would not necessarily require a hearing. If a hearing is required, we note that the Committee on Standards has power to work through sub-committees, and could appoint such a sub-committee if it considers a complainant might be intimidated by appearing before a fourteen member committee.”*
370. It therefore appears that if a member of staff formally complains of serious incidents of sexual harassment by a Member of Parliament, her complaint will be initially assessed and, assuming there is a case to answer, fully investigated by an independent specialist investigator. A written report containing the investigator’s reasoned decision must then go to the Commissioner for review. If the Commissioner finds that the decision to uphold the complaint is sound and that there is no basis for interfering with it, she must refer the matter to the Committee on Standards because if it is serious it will warrant a stronger sanction than she is permitted to impose. However, the Member can appeal to that Committee against the Commissioner’s finding on review of the investigation decision, as well as appeal against her decision on sanction, and he can apparently appeal on any basis, presumably on the basis that he simply disagrees with the independent investigator’s decision and considers that it is wrong.
371. 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.

372. Many of those members of staff speaking to this inquiry will have probably given up by this stage. And these are not idle hypotheses. As some contributors to this inquiry observed, *"Members are not usually slow to challenge any adverse findings against them. These new procedures are unlikely to prove any exception."* 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.
373. 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.

374. The lack of trust and confidence in procedures, which has so damaged the reputation of the House, will hardly be alleviated by such a process. And it risks bringing the Committee into serious disrepute.
375. 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. They doubtless have their own views on the strengths and weaknesses in their role. However, some valuable insights were offered in this respect in the *"Final Reflections of the first lay members at the end of their appointment period December 2012 – March 2017."*
376. They identified some uncomfortable realities in the work of the Committee and in the House regarding standards generally. The fragmented responsibility for standards issues, pressures of time and problems over prioritising standards, problems in the Committee's processes and the absence of clear and meaningful penalties are all said to combine to form *"significant barriers"* to the current arrangements for standards in the House.
377. Of particular concern in the present context are the following observations: *"32. [The fact] that MPs are placed under such significant time pressures when in London seems, we reflect, totally contrary to the aim of producing sound judgment. We have commented previously on the attendance of MP members at Committee on Standards meetings and how they are often expected to be in more than one place at any one time. Individual MPs are clearly heavily time constrained. ....Making time*

*for Committee on Standards issues can be difficult, particularly when they are faced by conflicting demands of party, constituency and individual interests....the ability of individual elected members to devote additional times to meetings which would move beyond 'fire-fighting' mode is, in our view, still limited.....39. During the period of our appointment, MPs both serving on the Committee and elsewhere in the House, have told us that many elected members are reluctant to sit in judgment on colleagues and therefore membership of the Committee is unlikely to be a route to advancement in the House or party. In our opinion, as long as the Committee operates in a reactive mode, dealing mostly with cases resulting from complaints, this reluctance to join the Committee is likely to remain."*

378. That last observation raises an issue which attracted much attention during this inquiry, namely the general reluctance of Members to judge the misconduct of other Members, or even to assist in the investigations by others into such misconduct. The Nolan principle of Leadership requires all holders of public office to be willing to challenge misconduct or inappropriate behaviour, wherever it occurs.
379. But many contributors testified to this general unwillingness to condemn a fellow MP, and to *"the omertà that many MPs practice in respect of bad conduct by one of their number. This is partly the result of a prevalent perception among MPs that the world outside does not understand or appreciate them as a group and therefore that they must surround any one of their members who is under attack with a waggon train of mutual support."* .... *"Members are generally unwilling to criticise a fellow MP despite political differences, there is an esprit de corps which means that they always support each other" ... "Behaviour which would unhesitatingly fall within the definition of bullying or harassment was suggested by some Members to be due to the employee being 'over-sensitive' or to the MP 'just being awkward'" ... "I asked a Member for help*

*because he'd witnessed what happened, but he said he wasn't willing to get involved in anything that involved criticising a fellow MP" ....*

*"Members turn a blind eye to dishonourable behaviour by others, and they have perpetuated a system where they remain largely judge and jury in respect of their own conduct."*

380. There can perhaps be no better demonstration of how inappropriate it will be for Members to be asked to sit in judgment on appeals from fellow Members found to have bullied or sexually harassed a member of House staff, or to determine an appropriate sanction. 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."*
381. 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. Members of staff contributing to this inquiry after publication of the new Scheme regard it as *"building on the same flawed premise as the existing Respect model for complaints"..... "It's such a shame after all this effort. If the outcome of a complaint is still in the hands of the politicians, that will undermine all the good work to date ... and sanctions must have teeth. This risks further reputational damage for the House. To have credibility the system has to be independent, both for investigations and for sanctions."* I agree.
382. The next question is whether there is any bar to the creation of an independent system for dealing with complaints against MPs for misconduct of this kind and imposing appropriate sanctions. That raises

the question of parliamentary privilege, but in my view privilege presents no bar in relation to dealing with misconduct of this kind.

### Privilege

383. Parliamentary privilege is a protection for the “proceedings of Parliament,” a safeguard to ensure that parliamentarians are able to carry out their duties to the best of their ability. There are two main aspects to privilege, namely the right to freedom of speech, ensuring that Members of Parliament can speak freely in debates, and the right of each House of Parliament to regulate its internal affairs without interference from the courts, including the right to regulate their own Members.
384. That right of exclusive jurisdiction over its own affairs is sometime referred to by its ancient term “exclusive cognisance.” But this right does not mean that Members of Parliament are exempt from the ordinary law. Where the conduct of an MP does not relate to “proceedings in Parliament,” even if it takes place within Parliament’s physical premises, it is within the jurisdiction of the courts and the law will apply to them in the same way as it does to anyone else.
385. In seeking to devise a complaints scheme which “*fitted in with the House’s existing disciplinary arrangements,*” some contributors think that the Steering Group may have been under a misapprehension as to the reach of parliamentary privilege in this context. They consider that, in this respect, the Group may have been influenced by the senior administration’s understanding that the principles of “exclusive cognisance” must be interpreted broadly. I need to address this issue, but I can do so shortly, because I do not regard privilege as presenting any barrier to the development of independent procedures to govern complaints of bullying and harassment by Members of Parliament.



386. The consequence of the privilege of immunity from outside interference is that, historically, it has prevented any independent scrutiny of the conduct of Members of Parliament. Proposals for change have always been resisted. Respect for parliamentary privilege and strict adherence to the principle that all Parliamentary communications are inviolable has informed all the thoughts and actions of the senior administration in the House, and this respect has been cascaded down to all those employed as Clerks. Some now consider that this has had a “*historically chilling effect on complaints and/or the pursuit of civil proceedings*” by those who, over the years, have been subjected to bullying or sexual harassment by Members of Parliament.
387. It is not clear from the Delivery Report whether any thought was given to the applicability of privilege in this context. If it was assumed to apply this may, at least in part, explain the fact that the Steering Group did not consider any alternative, independent model for dealing with complaints against Members in these cases.
388. However, the privilege extends only to “proceedings in Parliament,” and the courts have generally adopted a narrow approach to the interpretation of that phrase. In *R v Chaytor [2011] 1 AC 684 2009* three former MPs were prosecuted in relation to false expenses claims. They sought, unsuccessfully, to argue that the submission of claim forms formed part of proceedings in Parliament. By virtue of Article 9 of the Bill of Rights 1689, freedom of speech and debates or proceedings in Parliament could not be impeached or questioned in any court or place out of Parliament; and they therefore argued that the courts could not try them because the criminal proceedings would infringe parliamentary privilege. The Supreme Court dismissed that argument comprehensively. In doing so they considered the meaning of the phrase “proceedings in Parliament.”

389. In his judgment Lord Phillips quoted with approval the definition of “proceedings in Parliament” in the well-known passage in *Erskine May, Parliamentary Practice, 23<sup>rd</sup> ed (2004)*: “*The primary meaning of proceedings...is some formal action, usually a decision, taken by the House in its collective capacity. This is naturally extended to the forms of business in which the House takes action, and the whole process, the principal part of which is debate, by which it reaches a decision. An individual Member takes part in a proceeding usually by speech, but also by various recognised forms of formal action, such as voting, giving notice of a motion, or presenting a petition or report from a committee, most of such actions being time-saving substitutes for speaking.*”
390. Rejecting the argument that the submission of expenses claims amounted to “proceedings in Parliament” he observed, “*...the principal matter to which article 9 is directed is freedom of speech and debate in the Houses of Parliament and in parliamentary committees. This is where the core or essential business of Parliament takes place. In considering whether actions outside the Houses and committees fall within parliamentary proceedings because of their connection to them, it is necessary to consider the nature of that connection and whether, if such actions do not enjoy privilege, this is likely to impact adversely on the core or essential business of Parliament.*”
391. Criminal conduct by MPs has long been recognised as not falling within the ambit of the privilege, even if it takes place on Parliament’s premises. An MP who punched someone while on House premises would be liable to be prosecuted for assault. In *Attorney General of Ceylon v de Livera [1963] AC 103* Viscount Radcliffe, giving the advice of the Judicial Committee of the Privy Council, addressed the extent of the privilege of a member of the House and the complementary question, what is a proceeding in Parliament. He said that the answer depended upon consideration of this question, “*in what circumstances and in what*

*situations is a member of the House exercising his 'real' or 'essential' function as a member? For, given the proper anxiety of the House to confine its own or its members' privileges to the minimum infringement of the liberties of others, it is important to see those privileges do not cover activities that are not squarely within a member's true function."*

392. If the privilege cannot be not a charter for concealing criminal conduct by an MP, no more can it be used to conceal the sexual harassment of staff, or to conceal other bullying or harassing conduct towards staff while he is on Parliamentary premises, being conduct of a kind which would be considered unlawful in any other place of work. Both forms of misconduct may simultaneously involve criminal conduct, and both devalue and undermine the reputation of Parliament in the same way. In *Chaytor*, holding that the submission of claim forms did not qualify for the protection of privilege, Lord Phillips stated that, "*Scrutiny of claims by the courts will have no adverse impact on the core or essential business of Parliament, it will not inhibit debate or freedom of speech. Indeed it will not inhibit any of the varied activities in which Members of Parliament indulge that will bear in one way or another on their parliamentary duties. The only thing that it will inhibit is the making of dishonest claims.*"
393. Exposing to independent scrutiny complaints about bullying or sexual harassment by MPs in the workplace that is the House of Commons cannot reasonably be said to impact adversely on freedom of speech in Parliament. Nor will it impact adversely on the core functions of Parliament. What it may well do, however, is inhibit further misconduct of that kind, and hopefully eradicate it altogether.
394. It is unfortunate that the Steering Group do not appear to have considered these issues in their report. It is not clear to me, given their genuine wish to see real change and the intensive efforts made to improve things for complainants, that they would have dismissed out of

hand an alternative independent model for resolving complaints, had they considered it. The fact that they did not consider it is even more unexpected, given the precedent that already exists for independent investigations of MPs' conduct, through the creation of the Independent Parliamentary Standards Authority.

395. The Nolan principle of accountability requires that holders of public office have to be accountable to the public for their actions and must submit themselves to the scrutiny necessary to achieve this. Though resisted at the time, IPSA was established because of the perceived need urgently to restore public confidence in Parliament in the aftermath of alleged economic wrong-doing. The nature and extent of the personal misconduct alleged against Members in this inquiry must surely command no less a standard of response from the House in deciding how best to restore public confidence.

### **Independence**

396. Different views have been advanced as to how best an independent system may be achieved, and the principle would have to be accepted before the practicalities of delivering it could be carefully considered in conjunction with all the relevant parties. Some contributors advocate a system based on the IPSA model, with an independent organisation established to determine these complaints; and with a specialist investigator to conduct the investigations and report with recommendations as to sanction to a panel of independent decision makers, to include legally qualified members, in order to determine the appropriate sanction. Such a system would clearly meet the requirements of independence and fairness.
397. Others, recognising that this model would require legislation, and with an eye on the current crowded legislative timetable, consider that the role of

the Commissioner for Standards should be reformed in these sensitive cases, with amendments to Standing Orders so that she herself can exercise appropriate powers, as an independent office holder, and so that she can be extricated from the requirement of oversight by the Committee on Standards.

398. I have given some thought to how such a system might work in these particular cases, and obviously the views of the Commissioner herself would be crucial in all this. But the starting point of advantage is that the Commissioner for Standards is entirely independent of Parliament and bears responsibility for adherence by MPs to the Code of Conduct. Independence is a requirement of the post, safeguarded by the requirement in Standing Orders that the Commissioner can only be dismissed following resolution in the House. Monitoring the operation of the Code of Conduct and investigating allegations that MPs are in breach are part of her key responsibilities. A complaint made to her office by a member of House staff, for example, that she had been sexually harassed or assaulted by an MP would now be an allegation requiring investigation.
399. There is no reason why the Commissioner should not retain her present powers of informal resolution for those cases which are appropriate for such a course, where the complainant agrees, or which are insufficiently serious to require full investigation.
400. Where it is necessary to proceed to a full investigation, the investigation process should oblige all parties to participate, and render them subject to penalties for failure to do so. The standard of proof would be the balance of probabilities, as it is now. But in my view some adjustments would need to be made to the current investigation procedure as set out in the Scheme.

401. The investigation into the conduct of a Member of Parliament should be carried out by someone whose status, independence, expertise and experience are beyond question, and who has power to take evidence and require the production of documents. Distinguished senior lawyers or retired judges, highly experienced in handling these sensitive cases and in analysing evidence and finding facts, would ensure that the investigations and conclusions were treated with respect. Such a system would, or should command the confidence of any Member who considers that he or she has been falsely accused.
402. The investigator would send a provisional report to both parties, enabling them to comment on factual accuracy, and then provide the full report with reasoned findings to the Commissioner. And such an investigator, who has heard the evidence, conducted a fair investigation and given a reasoned decision upholding the complaint is more than capable of recommending an appropriate sanction.
403. The decision as to sanction would then be taken by the Commissioner herself, as the independent officer for standards in the House. Before that decision, there could be provision for either party to make written or oral representations to the Commissioner about the investigation or the report, or to make representations about sanction, with an oral hearing before the Commissioner as appropriate, either on her own or sitting with an independent legal adviser, to determine whether the report should stand and to consider sanction. If the report stands, the Commissioner can proceed to sanction. And her decision is final.
404. One of the problems with the current system is the absence of a range of specified sanctions for cases where these complaints are upheld. Leaving aside the extreme case of triggering a recall petition, with all its difficult democratic implications, there is obviously a broad range of possible sanctions to be considered, apart from apologies or attendance on

training or behaviour programmes, including for example 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 abroad or other activities. Only if a very serious question was raised during the process as to someone's fitness to serve as a Member should consideration be given to a report to the House to determine any question of recall.

405. These brief observations are offered simply to assist in any consideration of how an independent process might work, and to indicate that there are no insuperable barriers to such a process. Others may have different views as to how such a process could work. But the keys to reform are independence and impartiality, if the staff are to have faith in the process and if public confidence is to be restored. And an independent investigation by someone whose status, integrity and expertise are beyond question is a process in which all Members of Parliament can have confidence, and which I would regard as providing safeguards which are very much in their best interests.

#### **G. The House of Commons as an Employer: Fitness for Purpose**

406. The terms of reference for this inquiry have meant that the issues considered are extensive and wide-ranging. Recommendations for reform have been addressed in context, in each of the sections dealing with particular subjects, and no useful purpose is now served by a further list of specific recommendations outside those contexts.
407. There are, in summary, recommendations for mandatory, targeted training for everyone on bullying, harassment and sexual harassment, and for leadership and management training programmes, at all levels of

management. Training should now be a priority for the House, with adequate resources made available for regular induction and continuation training, to ensure adherence to and effective implementation of the standards of conduct in the Behaviour Code and the procedures in place to deal with complaints.

408. There are recommendations too for improvements in respect of record-keeping and in relation to the operation of the Human Resources Department generally, having regard to the problems addressed in this report. The Health and Wellbeing Service merits greater recognition and support, and its role should be expanded, promoted and adequately resourced. And the efforts being made to improve diversity at all levels of the House should be maintained.
409. In relation to the new Complaints and Grievance Scheme, the key recommendations are for the creation of an entirely independent process for the determination of complaints by House staff against MPs in these cases, and for the removal of the cut-off date for access to the new Scheme, so that all those wishing, after receiving specialist support and advice, to pursue complaints of historical allegations, can do so using the new procedures. For those unable to pursue complaints due to the previous systemic failings of the House to provide support or effective policies, provision should be made for an internal participatory reparative process to enable those failings and their impact to be acknowledged and apologies extended.
410. Other recommendations relate to revised definitions and wording in the new Scheme, changes to the right to representation and to confidentiality, and express recognition of the concept of gendered bullying. There are recommendations as to the need for properly resourced support services, clearer delineation of ownership and responsibility under this new Scheme, the maintaining of accurate



records of complaints and decisions made, and for regular and comprehensive training programmes and promotional work to maintain awareness of the importance of the Scheme and of the Behaviour Code which it underpins.

411. In relation to the previous policies, the main recommendation is that from now on neither the Valuing Others Policy nor the Revised Respect Policy should continue to be used. They would both require extensive revision if they were to stay, but operating them alongside the new Scheme will create confusion and incoherence and staff are unlikely to use them. It remains my view that neither policy provides an effective procedure for staff seeking to complain about abusive conduct of this kind, and that in all the circumstances it is unreasonable to require staff to use them.
412. The problem with merely summarising a set of recommendations at the conclusion of this lengthy report is that it seems to me to undervalue the deep-rooted problems that lie at the heart of all these issues. The introduction of new strategies and initiatives, or of new policies and procedures can only go some way towards addressing the core, cultural context in which all the problems I have described are manifest.
413. Having commissioned this inquiry, I fear that the House may fail those it is trying to help and sustain further damage to its reputation and to its credibility as an employer if this report leads only to another series of initiatives and process changes. A significant number of those members of House staff who came forward regard the status quo as untenable and express the view that “it will take several generations until the senior administration are capable of delivering the necessary changes”.
414. On this basis, I find it difficult to envisage how the necessary changes can be successfully delivered, and the confidence of the staff restored, under

the current senior House administration. As one contributor put it, “*We need to press the reset button, but I’m not sure the senior administration understand that, or even know what it means.*”

415. I have been struck throughout this inquiry by the professionalism and dedication of those contributing, at all levels, and by their pride in the House as an institution. Nobody who reads this report can fail to be dismayed by the nature and extent of the problems it has revealed. The legitimacy and authority of the House and the respect and pride which everyone should feel in its existence is seriously undermined by the information that has been provided and that is described in this report.
416. As the report makes clear, I was presented with a series of serious allegations of abusive conduct made against particular individuals – both House staff and elected Members – some of whom were referred to independently on a number of occasions and some of whom were regarded as “*serial offenders.*” I do not name particular individuals, having regard to my terms of reference, the guarantee of confidentiality and the absence of any process in this inquiry for fairly investigating individual complaints.
417. Some of those against whom allegations of misconduct have been made in this inquiry may yet be the subject of complaints under the new Scheme, requiring any disputed allegations to be determined in accordance with the procedures established. However, when reading this report some people may privately recognise their own behaviours in some of the alleged abusive conduct I have described. I would hope that a process of reflection leads them to consider what, if anything, they should now do in the best interests of the House.
418. In relation to allegations made against Members of Parliament, it is readily acknowledged and should be emphasised that the overwhelming majority of Members behave entirely appropriately and courteously

towards members of House staff. However, their collective reputation is being damaged by the allegations of unacceptable behaviour made against some of their number and by the inadequacy of the procedures in place to deal with complaints. I have no doubt that they will regard this as intolerable.

419. If approached for advice by a constituent who was the victim of bullying or sexual harassment in their own workplace, I am confident that they would not hesitate in assisting them to take forward their complaints. I therefore hope that the recommendations I have made will receive the active support of those elected Members who will be appalled by the abusive conduct alleged against some of their number, but who will also be anxious to ensure that any process for determining disputed allegations is independent, effective and fair to both sides.
420. I have also referred throughout this report to systemic or institutional failings and to a collective ethos in the House that has, over the years, enabled the underlying culture to develop and to persist. Within this culture, there are a number of individuals who are regarded as bearing some personal responsibility for the criticisms made, and whose continued presence is viewed as unlikely to facilitate the necessary changes, but whom it would also be wrong for me to name, having regard to the terms of reference for this inquiry. I hope, however, that the findings in this report will enable a period of reflection in that respect in addition.
421. In considering how best to progress the change in culture that is accepted as essential, and how best to take forward the recommendations in this report, it may be that some individuals will want to think very carefully about whether they are the right people to press the reset button and to do what is required to deliver that change in the best interests of the

House, having regard both to its reputation and its role as an employer of those who are rightly regarded as its most important resource.

Laura Cox

October 2018

# Eitem 3

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