

Office of the Parliamentary Commissioner for Standards

Submission to the Parliament of Australia's Joint Select Committee on Parliamentary Standards

Thank you for inviting me to contribute to your inquiry on the development of codes of conduct for Commonwealth Parliamentary Workplace. As you may be aware, following a resolution of 19 July 2018, the House of Commons embedded Parliament's Behaviour Code¹ into The Code of Conduct for Members of Parliament. At the same time, the House also approved policies and procedures relating to bullying and harassment and sexual misconduct as set out in the Independent Complaints and Grievance Scheme (ICGS) Delivery Report, which was published on 17 July 2018.²

Under the ICGS, complaints are first made through an independent reporting helpline; it is not necessary for a caller to lodge a formal complaint as the helpline can be used as a support and guidance tool only. If a formal complaint of bullying and harassment and/or sexual misconduct is made, an independent investigator will be assigned by the scheme to assess, investigate, and make a recommendation about the complaint. The work of the investigator is undertaken on behalf of a parliamentary decision-making body who will make the final decision about the outcome of a complaint and, where appropriate, the sanction. I am the decision maker for complaints concerning a Member of Parliament and I have a unique additional oversight responsibility for ensuring that investigations are conducted to a robust standard.

However, my final decision, both on outcome and sanction, can be appealed to the Independent Expert Panel which was established by the House on 23 June 2020.³ The creation of the Independent Expert Panel (IEP) now means that Members of Parliament are not involved in judging the workplace conduct of a colleague.⁴ The creation of the IEP embeds independence in

¹ <https://www.parliament.uk/globalassets/documents/lords-committees/privileges/UKParliamentBehaviourCode.pdf>

² <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliaments-behaviour-code/>

³ <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/independent-expert-panel/>

⁴ The Committee on Standards continues to hear cases referred to it by me for a breach of the separate Code of Conduct for Members of Parliament

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every step of the scheme; in the helpline, in the investigation, in the decision-making stage, and at the appeal stage.

My reflections below are informed by our experience of working under these arrangements.

- Having one code for everyone working in, and visiting, Parliament has proven to be beneficial in ensuring a consistent message about acceptable behaviour can be rolled out efficiently across Parliament and in ensuring that unacceptable behaviour can be fairly and consistently challenged.
- To maximise its impact, any behavioural code needs to be drafted in simple terms and kept short.
- If the behaviour code is to be supported by an enforcement system, then the code will need to be drafted to include clearly enforceable rules and cannot be based on aspirational principles only.
- The training, induction, publicity, and sign-up, to support a behavioural code are as important as the code itself – without these underpinning elements any code is likely to have little or no impact.
- There needs to be a transparent and robust mechanism for monitoring the impact of the behavioural code – some parts of the workplace may benefit from focussed support to successfully changed embedded inappropriate working cultures and practices.
- If the behaviour code is to be supported by an enforcement system, any such system needs extensive contingency testing before being launched. Once launched, it needs clear success criteria that its performance can be measured against as well regular review that draws on feedback from users and stakeholders.
- If the enforcement system involves workplace investigations, those investigations need to be completed efficiently, independently, and confidentially. In our experience, a strong system of informal resolution can provide better outcomes more expediently, and which in turn drives confidence in the code and real behavioural change, than formal investigations which tend to become adversarial and protracted.
- If enforcement action is contemplated for a parliamentarian in relation to a breach of a workplace code, it is crucial that an independent body determines both the breach and corresponding sanction, with an embedded right of appeal (ideally to a sub-panel of the same independent body).

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- If enforcement action is taken against a parliamentarian for a breach of a workplace code, the outcome, even if only in summary form, needs to be published in order to maintain the confidence of both the public and those working in, and visiting, Parliament. All enforcement action should involve meaningful sanctions that are primarily focussed on behavioural change and personal growth such as 1-2-1 training and coaching.

I trust that these reflections assist you in drawing up a successful workplace code of conduct that has a real and positive impact in promoting acceptable behaviours.

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Parliamentary Commissioner for Standards