

**Independent
Expert Panel**

The Conduct of David Warburton

Presented to the House of Commons
pursuant to House of Commons Standing Order No. 150A

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The Independent Expert Panel

The Independent Expert Panel was established by resolution of the House of Commons on 23 June 2020. The Panel:

- Hears appeals against decisions made by the Parliamentary Commissioner for Standards (the Commissioner), and considers referrals from the Commissioner and determines sanctions in cases involving an allegation against an MP of a breach of Parliament's Sexual Misconduct Policy or the Bullying and Harassment policy, under the Independent Complaints and Grievance Scheme; and
- Hears appeals against decisions by the Committee on Standards in cases involving an allegation against an MP of a breach of the Code of Conduct for Members of Parliament.

Current membership

Mrs Lisa Ball
Monica Daley
Mrs Johanna Higgins
Sir Stephen Irwin (Chair)
Professor Clare McGlynn KC (Hon)
Miss Dale Simon
Sir Peter Thornton KC
Dr Matthew Vickers

Powers

The Panel's powers are set out in House of Commons Standing Orders No. 150A to No. 150D. These are available on the internet via www.parliament.uk.

Publication

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Report by the Chair of the Panel

- 1.1 The Independent Expert Panel (the Panel) was established by the House of Commons on 23 June 2020. The Panel hears any appeals from decisions by the Parliamentary Commissioner for Standards (the Commissioner) on complaints against a MP, or former MP, under the Independent Complaints and Grievance Scheme (ICGS); and considers referrals from the Commissioner to determine sanctions where they have upheld a complaint in serious cases. These are cases involving an allegation of a breach of the Bullying and Harassment Policy for UK Parliament, or the Sexual Misconduct Policy for UK Parliament. It also hears appeals against decisions by the Committee on Standards from MPs who have been found to have breached the Code of Conduct for MPs.
- 1.2 The Panel is guided by the principles of natural justice, fairness for all parties, transparency and proportionality. We understand the seriousness of, and the harm caused by bullying, harassment and sexual misconduct. We are rigorously independent, impartial and objective, acting without any political input or influence.
- 1.3 This is a report of the decision of the Panel on an appeal following a referral by the Commissioner of a complaint under the Sexual Misconduct Policy that he had upheld against the respondent, David Warburton, the Member for Somerton and Frome from 7 May 2015 to 19 June 2023.
- 1.4 The complainant was a member of staff in Mr Warburton's Westminster office. She made a complaint against Mr Warburton to the ICGS helpline on 28 March 2022. Following the initial assessment by an independent Investigator appointed by the ICGS the contents were organised under six allegations, four of a breach of the sexual misconduct policy and two of the bullying and harassment policy.
- 1.5 Following his investigation, the Investigator recommended upholding two of the sexual misconduct allegations. Having reviewed the Investigator's report the Commissioner concluded that the Investigator had not "appropriately considered and weighed the relevant evidence" and that his judgement was not

in line with the definitions in the ICGS policies. Therefore, the Commissioner based his conclusions on the primary evidence collected by the Investigator. He decided to uphold three of the sexual misconduct allegations. In doing so he disagreed with the Investigator's recommendations.

1.6 The Commissioner referred the case to the Panel to determine sanction on 28 April 2023. Following an extension of the deadline, on 8 June the respondent appealed the Commissioner's decision, on the grounds that the investigation was materially flawed in a way that affected the Commissioner's decision; the Commissioner's decision was procedurally flawed and unreasonable; and exceptionally there was another compelling reason that the appeal should be allowed. I appointed the following sub-panel to consider the respondent's appeal:

- Mrs Johanna Higgins (Chair)
- Sir Stephen Irwin
- Dr Matthew Vickers

1.7 For the reasons set out in its decision, which is currently not published, the sub-panel upheld the respondent's appeal. It has ordered that the case be reinvestigated by a different investigator and the Commissioner make his decision afresh following that investigation.

1.8 In summary the sub-panel agreed with the Commissioner that the investigation was inadequate but disagreed with his decision that a reinvestigation was not required. It found that the Investigator had failed properly to pursue the suggestion by the respondent that the complainant had colluded with witnesses to fabricate the complaint against him. The respondent had submitted material that might be capable of supporting his argument, but it had not been properly assessed by the Investigator or the Commissioner. The Commissioner also failed fully to consider whether the complainant's breach of confidentiality at the beginning of the process, and her denial of it, affected her credibility. The sub-panel also concluded that the Commissioner had relied on evidence that had not been adequately tested during the investigation; had omitted evidence from his considerations that might have been useful; and that in parts his reasoning was not sufficient to explain how he had reached his conclusions.

- 1.9 The sub-panel have made no findings on the substance of the complaint against the respondent, or the allegation that the complaint was fabricated. Those remain open questions for the new investigation. In ordering a new investigation the sub-panel was mindful of the “long delays in this case and the consequent pressure on the parties.” However, it concluded that “the nature of the complaints against the respondent and his counter suggestions of malicious complaint by the complainant require resolution. Reinvestigation remains both necessary and proportionate”.
- 1.10 The respondent announced his intention to resign as an MP in a public letter and a newspaper interview on 17 June 2023. He ceased to be an MP on 19 June. As is clear from the sub-panel’s decision, it had met on Wednesday 14 June to consider the appeal, prior to Mr Warburton’s resignation, and had at that meeting decided to uphold the appeal and order a reinvestigation. As is normal the outcome was not communicated to the parties until the full written decision giving the sub-panel’s reasons was completed. They received an embargoed copy of this report today (4 July).
- 1.11 It is the Panel’s normal practice not to publish a report where an appeal by the respondent has been upheld and confidentiality has been maintained. Nor would we usually publish a decision that is not determinative of the complaint, and where a reinvestigation is required. In this case, we are not now publishing the substantive part of the sub-panel’s report, in order to avoid the risk of prejudicing the reinvestigation.
- 1.12 Both parties have significantly breached their confidentiality agreements, and there has been fairly widespread media reporting about the case. I emphasise that the parties’ obligations to maintain confidentiality remain, and remain important. The reinvestigation is likely to involve detailed further work, including dealing with the parties themselves and with witnesses. Despite the history here, further breaches of confidentiality do have the potential to damage or frustrate the proper completion of the process. This is not an academic point even now. Moreover, if any further breach occurs and is attributable to the parties or either of them, that may be capable of affecting eventual conclusions on credibility. In all such cases, confidentiality is important to protect the integrity of the process. The parties and the public will be aware that any future decision of the Panel in this case will be published, and the facts will be known.

1.13 I therefore make this report to the House pursuant to Standing Order No. 150A. All other information about this case, including the identity of the complainant, any witnesses, the Investigator's report, and the Commissioner's memorandum remains confidential.

Rt Hon Sir Stephen Irwin

4 July 2023