

## Explanatory memorandum for the motion relating to Standing Orders etc. (Independent Expert Panel)

Sir John Benger – Clerk of the House

June 2023

### Overview

This motion relates to changes to the way the Chair of the Independent Expert Panel (the Panel) is appointed. It has been recommended by the Panel and the House of Commons Commission. The motion stands in the name of the Leader of the House.

Under the current Standing Orders (No. 150A(4)), a new Chair of the IEP will be elected from within the Panel's membership when the current Chair's four-year term ends in November 2024. This motion provides that the House will instead appoint the new Chair of the Panel allowing them to be recruited specifically as the Chair. It also makes consequential provisions so the Panel can function effectively if there is an unexpected vacancy of the Chair.

### Background

The Independent Expert Panel determines appeals and sanctions in cases where complaints have been brought against MPs of bullying, harassment or sexual misconduct under the Independent Complaints and Grievance Scheme (ICGS). 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.

The Standing Orders establishing the Panel, agreed in June 2020, provide that "*the Panel may elect its own Chair*" from within its eight Members. However, notwithstanding this provision the House itself appointed Sir Stephen Irwin as the Panel's first Chair. The Panel and the Commission consider that the Chair should be explicitly recruited as such, as there is no guarantee a candidate with the necessary qualifications or experience could always be drawn from the Panel.

The motion therefore provides for future Chairs of the Panel be appointed directly by the House following an open competition.

### The motion as it relates to Standing Order No 150A (Independent Expert Panel):

- In para (1), provides for the House to appoint the Panel's members *and Chair* in the future;
- in para (2), makes a consequential change to state that the Panel will be made up of seven members and a specified Chair, rather than eight members; and
- in para (4), makes provision for an interim chair to be elected from within the Panel if there is an unexpected vacancy of the Chair. The Chair has specific responsibilities, including, for example, the allocation of sub-panels to consider cases, that are required for the Panel to function.

### The motion as it relates to Standing Order No 150C (Appointment of Independent Expert Panel *Chair and members*):

- In para (5), adds a provision that an existing member of the Panel may become Chair if they apply through the fair and open recruitment. However, doing so does not extend their term, which continues as it did when they were first appointed to the Panel and remains non-renewable; and
- in a new paragraph, inserts a definition of "member" to mean "member and Chair of the Panel" for the purposes of this Order. It also reaffirms that once a member or Chair has been appointed to the Panel, they may not change their total period of appointment by varying their role on the Panel.

**Annex—Standing Orders No. 150A and No. 150C as proposed in the motion**

**150A. Independent Expert Panel**

- (1) There shall be a Panel, to be known as the Independent Expert Panel, whose members and Chair shall be appointed by the House in accordance with Standing Order No. 150C (Appointment of Independent Expert Panel Members).
- (2) The Panel shall consist of its Chair and seven other members, of whom a quorum shall be four.
- (3) The functions of the Panel shall be—
  - (a) to determine the appropriate sanction in Independent Complaints and Grievance Scheme (ICGS) cases referred to it by the Parliamentary Commissioner on Standards;
  - (b) to hear appeals against the decisions of the Parliamentary Commissioner for Standards in respect of ICGS cases involving Members of this House;
  - (c) to hear appeals against a sanction imposed under paragraph (a);
  - (d) to report from time to time, through the Clerk of the House, on the operation of the ICGS as it relates to Members of this House;
  - (e) to hear appeals against the decisions of the Committee on Standards under Standing Order No. 149(1)(b) in relation to individual cases under the Code of Conduct;
  - (f) to consider any case of non-compliance by a Member of this House with a sanction imposed under sub-paragraph (a) or any other recommendation made in a report by a sub-panel in relation to an ICGS case; and to determine the appropriate sanction.
- (4) If the position of Chair of the Panel becomes vacant, the Panel may elect an interim Chair for the period of vacancy, who shall be entitled to exercise all powers vested in a Chair appointed in accordance with paragraph (1) of this Order.
- (5) The responsibilities of the Chair shall include—
  - (a) ensuring that the Panel and its sub-panels comply with the provisions of the relevant resolutions and standing orders of this House, and with the Procedural Protocol for Code of Conduct cases;
  - (b) the appointment of sub-panels to consider individual cases;
  - (c) co-ordinating the work of the Panel with that of the Parliamentary Commissioner for Standards in relation to ICGS cases and the Committee on Standards in relation to Code of Conduct cases;
  - (d) referring any report from a sub-panel which determines, or confirms on appeal, a sanction that can only be imposed by the House, and any other report from a sub-panel that the Chair considers should be published, to the Clerk of the House who shall lay it upon the Table of the House;
  - (e) informing the parties concerned of the outcome of any other ICGS case reported to the Chair by a sub-panel, and ensuring compliance as appropriate with sanctions determined or recommendations made by a sub-panel;

(f) establishing the procedure for an appeal against the findings or determination of a sub-panel in cases referred under (3)(a) above;

(g) ensuring publication of an Annual Report on the functioning of the Panel and its sub-panels by referring the report to the Clerk of the House for laying on the Table.

(6) The Panel and any sub-panel shall have power—

(a) to sit notwithstanding any adjournment of the House;

(b) to order the attendance of any Member before it and to require that specific documents or records in the possession of a Member relating to its inquiries, or to the inquiries of the Commissioner, be laid before it;

(c) to appoint legal advisers, and to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the Panel's order of reference.

### **150C. Appointment of Independent Expert Panel Chair and members**

(1) The members of the Independent Expert Panel shall be appointed by resolutions of the House on motions made under the provisions of this order and shall remain as members in accordance with the provisions of this order.

(2) The period of appointment of each member shall be specified in the resolution of the House for appointment and shall not exceed six years. The appointment of a member is not terminated by any dissolution of Parliament.

(3) No person who has once been a member may be appointed for a further term.

(4) No person may be appointed as a member if that person is or has been a Member of this House or a Member of the House of Lords; and any person so appointed shall cease to be a member upon becoming a Member of this House or of the House of Lords.

(5) No person may be appointed as a member unless that person has been selected on the basis of a fair and open competition. A member of the panel may apply to be appointed to the position of Chair for the remainder of their original period of appointment.

(6) A person appointed as a member may resign as a member by giving notice to the House of Commons Commission.

(7) A person appointed as a member shall be dismissed from that position only following a resolution of the House, after the House of Commons Commission has reported that it is satisfied that the person should cease to be a member; and any such report shall include a statement of the Commission's reasons for its conclusion.

(l) In this Order, the term "member" includes the Chair of the Panel, and provisions relating to period of appointment apply to the total length of service on the Panel in any capacity.

(8) No motion may be made under the provisions of this order unless—

(a) notice of the motion has been given at least two sitting days previously, and

(b) the motion is made on behalf of the House of Commons Commission by a Member of the Commission.

(9) The Speaker shall put the questions necessary to dispose of proceedings on motions made under the provisions of this order not later than one hour after the commencement of those proceedings.

(10) Business to which this order applies may be proceeded with at any hour, though opposed.