



# **Reforming our Party's Disciplinary Processes**

Report by Lord Macdonald of River  
Glaven, Kt QC

**Spring Conference 2018**



# Contents

<b>Introduction .....</b>	<b>2</b>
<b>Consultations .....</b>	<b>3</b>
Consultation Round 1 (2015) – Governance Review .....	3
Consultation Round 2 (2016) – Governance Review .....	4
Consultation Round 3 (2017) – Stakeholder Interviews.....	5
Consultation Round 4 (2017) – Survey on Draft Proposals ...	6
<b>Report by Isabelle Parasram.....</b>	<b>8</b>
<b>Final Proposals .....</b>	<b>9</b>
Definitions .....	10
Explanatory notes.....	11
Timeline .....	20
Additional information.....	21
Proposed definition: bringing the Party into disrepute.....	23
<b>Further Recommendations .....</b>	<b>24</b>
Mediation .....	24
Recruitment and Training.....	25
The media.....	26
Whistleblower Policy .....	27

## **Introduction**

Following the Governance Review in 2015-16, and the decision by Federal Board's predecessor at its Away Days in December 2015 and February 2016, a separate review into the party's disciplinary processes was commissioned. I was approached following Autumn Conference 2016 to undertake the review, initially on the understanding it would come to Autumn Conference in 2017.

When the General Election was called in March 2017, the Federal Board took the decision to pause the review and as a result, proposals will now be coming to Federal Spring Conference in 2018.

The remit for this review was specifically focussed on the Party's disciplinary processes and not on any procedures relating to mediation for example. Nonetheless it is important to state from the outset that, while the proposals which follow are designed to deal with the most serious of cases (where it is clear that members' actions may have brought or risk bringing the Party into disrepute), the system will not function unless there is sufficient capacity for providing local resolution and mediation facilities, to prevent cases escalating.

For that reason, in addition to the final recommendations I will be making on the format for a new disciplinary system for the Party, this report will conclude with a number of clear recommendations which must underpin any reforms the Party chooses to make, relating to areas such as mediation and the proper training of volunteers. These recommendations are based largely on the conclusions of interviews with key stakeholders and others.

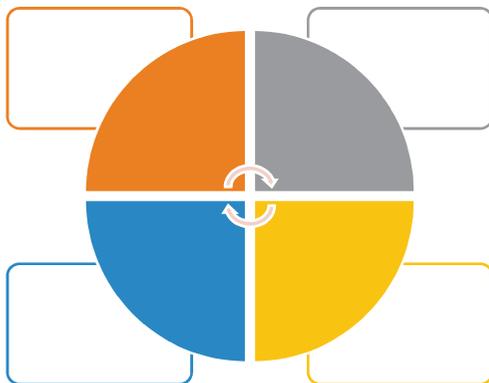
**Lord Macdonald of River Glaven Kt QC**

## **Consultations**

### ***Consultation Round 1 (2015) – Governance Review***

The first round of consultation on the Party's governance in 2015 included a section entitled 'Respect for each other', which asked a number of questions specifically regarding the Party's disciplinary processes. The response from members raised significant concerns about whether our disciplinary procedures were fit for purpose.

A number of respondents felt there was a lack of transparency and that levels of communication could, in the words of one member, be 'patchy at best and non-existent at worst'. This was reflected in a range of responses on the subject. A number also raised concerns about the length of time it took for cases to be resolved, which only added to the lack of transparency and communication.



Two other conclusions can be drawn from the consultation responses. First, that priority should be given to ensuring that local resolutions are facilitated in some way, and that members should be directed into a mediation process in the first instance. Second, that when serious disciplinary cases occurred there should be consistency of approach and that this was best served by a more centralised system.

Finally, there was a desire to see more sensitive handling in cases involving minority groups within the party, and those who might be classified as vulnerable either due to their age or circumstances.

It is my understanding that this last aspect was taken on board immediately following the feedback, and that systems have since been put in place via the Pastoral Care Officer.

## **Consultation Round 2 (2016) – Governance Review**

The second round of consultation focussed specifically on whether the decision to commission a separate review into the Party's disciplinary processes was correct.

The responses demonstrated the extent of distrust which exists in the current system, with members largely expecting this review to be unaccountable, ineffective and plagued by vested interests, especially among the Party's leadership. There was a clear sense that some members felt that there was one rule for some (those individuals wielding power in the Party), and another for those without power who were seeking to bring complaints.



Some members again referred to the need for more informal procedures and conflict resolution at a local level, to avoid minor cases developing into major ones which then had to be dealt with through a disciplinary process. This was particularly the case when it came to complaints relating to



bullying, harassment (including sexual harassment), sexism and racism – all of which were specifically referenced in a number of submissions.

The clear conclusion I drew from both initial rounds of consultation is that any new structure has to provide members with confidence that their complaint is being dealt with by trained individuals, who are accountable to the Party but *separate* from its executive bodies. Communication is also key – not only in terms of the lines of communication but also in terms of guidance provided to the relevant parties, including clear information on what can be expected at each stage of the process.

In addition, any efficient process can only function where it is supported by a system of mediation and informal resolution designed to mitigate against cases escalating unnecessarily to the level where disciplinary proceedings are required to resolve them.

Finally, there must be clear guidance provided to members going through the process as to what support they can expect, especially where they are vulnerable in some way or are members of minority groups.



### ***Consultation Round 3 (2017) – Stakeholder Interviews***

Interviews were held with key party stakeholders and staff, and with witnesses who had been either a complainant or the subject of a complaint. These began to be held in February and March 2017 but were then put on hold as a result of the general election being called. A number of interviews were subsequently held in October and early November 2017.



There is clear consensus both among stakeholders and the wider membership that the most important area to be addressed in any new disciplinary scheme is a properly resourced training programme to ensure we have a properly staffed disciplinary system, linked with a properly staffed mediation system to support it. One stakeholder made it very clear that the cost implications (both political and financial) will be far worse if we fail to ensure this, and that as a result the Party should consider this a spending priority.

I am very clear that the system which was put to the membership in the survey in November 2017 can and will not function without a fully resourced training programme. The Party must ensure that volunteers are given the resources to run both the disciplinary process and the supporting mediation processes. I concur with the stakeholder's comment above that the cost implications for failure are significantly

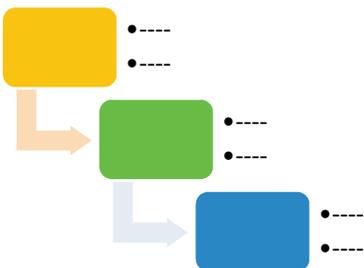
higher than those required to train the relevant individuals. The recent sexual harassment scandals have only given renewed focus to what has been a thorny issue for the Party for some time.

I also note that the onus for this can and should not rest with the already overburdened staff at Party Headquarters. While some staff support will inevitably be required, the training and the system as a whole must be resourced as far as possible by the voluntary party. This not only allows staff to get on with the work we require of them as a campaigning Party, especially with the implementation of GDPR, but it also helps ensure the system we have commands the confidence of the membership – that it is run by and for Party members.

The clear and unambiguous message to come from the interviews we conducted was that unless we have a fully functional disciplinary system underpinned by a properly resourced training programme for mediators and adjudicators, the reforms I am proposing will fail to have the desired effect.

### ***Consultation Round 4 (2017) – Survey on Draft Proposals***

The evidence gathered through the rounds of consultation above led to a series of proposals being put out to consultation in mid-November 2017. This was advertised via the monthly members newsletter, and a



blog by myself on Lib Dem Voice with a shareable link to the survey. This blog was then further advertised via resources such as Lib Dem Megaphone on Facebook. The consultation ran until Friday 1 December. In total, almost 500 members took part on the consultation.

Broadly speaking members seem happy with the proposals as they stand, on the assumption that detailed guidance be laid out and be made fully available to members in advance of the processes switching over, if they are voted through by Conference. This guidance is where a

lot of the detailed queries will be addressed, rather than in the main body of the constitutional amendments.

It is my intention that an explanatory booklet be produced ahead of the relevant amendments coming to Conference, which will signpost members to guidance available on the website and provide a short and clear explanation of the processes being proposed.

Some of the proposals have been tweaked in response to comments by members, and these changes have been incorporated into the final proposals below.

## **Report by Isabelle Parasram**

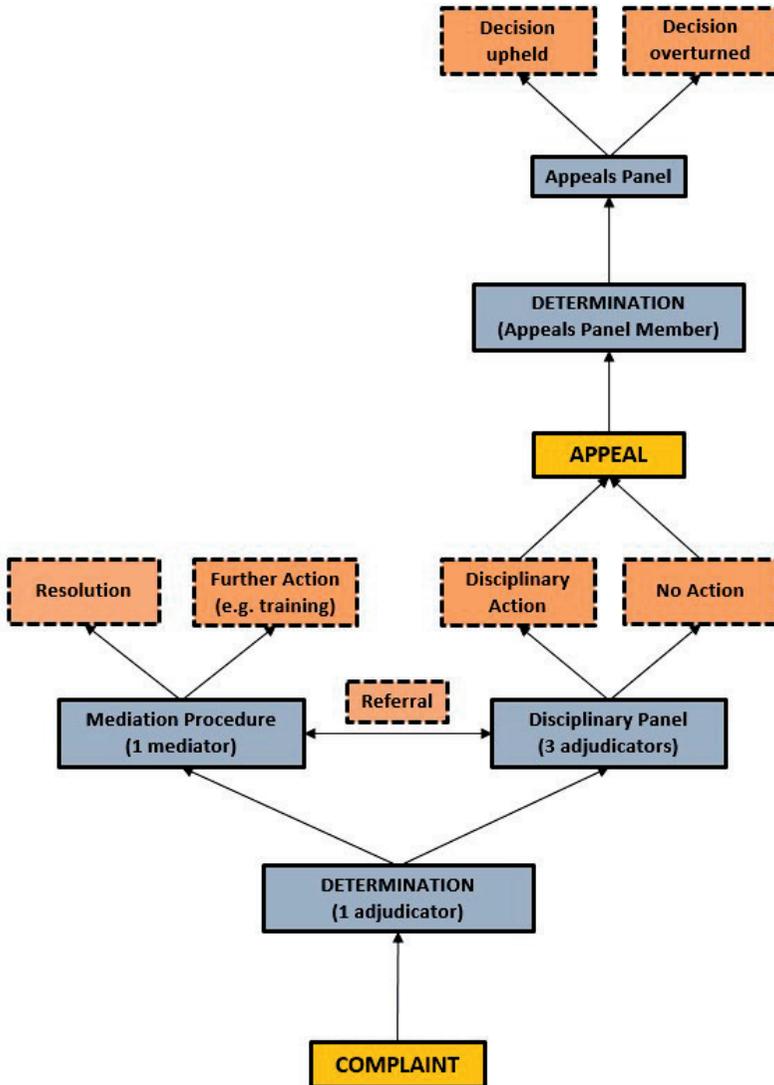
One of the consequences of the string of sexual harassment allegations which were brought to light following the Harvey Weinstein allegations was a number of individuals bringing forward complaints against politicians and Party activists in Westminster. One of these included an allegation of rape which was made regarding a Liberal Democrat member, and which it was alleged had not been dealt with in a timely or effective manner.

In the wake of this, the Federal Board commissioned a special investigation of the processes which it was alleged had failed, and appointed Isabelle Parasram, the Head of Chambers at Greycoat Law, to carry out this investigation. More information on the remit of the review can be found here: [www.libdems.org.uk/special\\_investigation](http://www.libdems.org.uk/special_investigation)

In order to ensure the work was co-ordinated, Isabelle and myself met at the start of her investigation. The intention was for her report was completed in time for her recommendations to be incorporated into this review – an aim which she achieved, completing her report on 6<sup>th</sup> December. The vast majority of her recommendations have been adopted as part of the proposals which are now put before Conference.

## Final Proposals

Overall, the feedback from the survey was positive about the draft proposals, with a number of very helpful suggestions on how to proceed. That said, the basic premise remains the same, and as such the following diagram details the proposed complaint path.



It differs from the draft only in that an adjudicator must be the individual making the determination as to whether a case proceeds to a disciplinary panel or otherwise. Following this diagram is an explanatory note outlining what happens at each stage of the process, followed by notes on a few key areas, a definition on bringing the Party into disrepute and a timeline.

## ***Definitions***

Complaint A complaint is made where the behaviour of a member is deemed by any other member of the party to have breached the Members Code of Conduct or brought the Party into disrepute. This may include criminal behaviour, although complainants shall be made aware of the circumstances in which complaints shall be referred to the Police.

Complainant The 'complainant' is the individual (member or otherwise), bringing a complaint regarding a member's behaviour. If their complaint is referred to a disciplinary panel, they become a witness to the fact.

Respondent The 'respondent' is the member about whom a complaint has been made.

Adjudicator An 'adjudicator' is an individual trained to assess the severity of a complaint and to sit on a panel determining whether disciplinary action should be taken. Each Disciplinary Panel is made up of three adjudicators. If an adjudicator is selected to determine that a complaint should be brought before a panel, that adjudicator presents the case that disciplinary action should be taken, on behalf of the Party.

Mediator A 'mediator' is trained in mediating disputes between individuals.

## ***Explanatory notes***

### **COMPLAINT**

A complaint may be brought by any member of the Party at any level, or by an individual external to the Party. Any complaints will come to a central mailbox to be processed at determination stage, although the option of local resolution should be considered first. The central mailbox shall have an automatic reply, providing proof to the individual complaining that their complaint has been received and pointing them to relevant information and guidance available on the website.

It is important to note that this process will only be there to deal with the most serious cases, where the complaint amounts to an allegation that the act in question has brought the party into disrepute – local disputes of less seriousness (no doubt the vast majority of cases) should be dealt with at a local level, where necessary with oversight from trained mediators, or with their direct involvement.

Officers of the Party and Party staff will have an obligation to report any instances of which they become aware which may risk bringing the Party into disrepute, including any potentially criminal matters which they are duty-bound, as Party employees, to report to the Police.

Any complaint brought to the Party either via the central mailbox or through one of its staff (most notably the Pastoral Care Officer or the Compliance team) must be treated as confidential, although the caveat on reporting to the police applies in all instances. This principle of confidentiality will also be expanded in guidance on anonymity – to what extent and when witnesses and complainants should be anonymous, and the extent to which the identity of the respondent should be withheld to protect them, ahead of the process concluding.

These principles shall be set out in guidance which shall be made publicly available and to which any complainants, witnesses and respondents shall be directed in this stage of the process, prior to determination.

**DETERMINATION  
(1 adjudicator)**

Once a complaint has been received, in all cases an adjudicator shall be appointed from a list of adjudicators within 7 days. This individual shall have

no prior knowledge of the complaint, nor shall they be associated with any of the individuals concerned. This adjudicator shall become the investigator and shall present the case on behalf of the Party should it progress to a disciplinary panel hearing.

Once appointed, the adjudicator shall determine which of the following four options applies:

1. Suspend process pending external investigation
2. Progress to disciplinary panel
3. Refer to mediation
4. Dismiss case

In all cases where serious criminal conduct is alleged, the default position should be suspension of the disciplinary process and referral to the police.

In all cases where the adjudicator is of the view that the complaint amounts to an allegation that the party has been brought into disrepute, and that sufficient evidence exists to justify a disciplinary panel being convened to consider the matter, the case should progress to a panel.

In all cases where the adjudicator is of the view that the act complained of, if proved, would not be capable of bringing the party into disrepute, or that insufficient evidence exists to justify a panel being convened to consider the case, the matter shall either be referred to mediation, or dismissed.

This determination shall take no longer than 7 days from the point an adjudicator is appointed, with a further 14 days for a formal investigation to be carried out post-determination, in cases where a disciplinary panel is to be convened.

It is expected that details of the determination shall be communicated within 24 hours to the complainant and, where the case is not dismissed, to the respondent. [exact details on what should be communicated at which stage and in which circumstances to be laid out in guidance at a later stage]

Where the adjudicator determines that the case should be referred to mediation or dismissed, the complainant shall have the right to ask for a second opinion from a separate adjudicator, who shall be appointed in the same manner as the first. If the second adjudicator's determination differs from the first, then the second determination shall be carried forward. Where they reach the same conclusion, the case shall be dismissed with no further right of appeal.

**Mediation Procedure  
(1 mediator)**

Once a determination has been made that a case should be referred to mediation, the relevant state party shall appoint a mediator within 7 days of the

determination being communicated to them. The first meeting between the relevant parties shall be held within 14 days of a mediator being appointed, and the process as a whole shall be completed within two months.

At the end of the process the mediator shall communicate one of the following conclusions to the relevant parties and to a central mailbox:

**Resolution**

1. Matter resolved
2. Matter unresolved but no further action
3. Training required (either / both participants)
4. Matter referred to a disciplinary panel

**Further Action  
(e.g. training)**

In the event that no resolution is possible within two months, the appointed mediator shall make a determination as to whether an extension to the timeline is appropriate. This extension must be agreed by the relevant parties. In the event that no extension is agreed or where a resolution is not possible within the timeframe, the mediator shall determine whether to refer the matter back to a disciplinary panel.

**Referral**

In all cases and at any point in the process, the mediator shall reserve the right to refer the case to a disciplinary panel.

**Disciplinary Panel  
(3 adjudicators)**

Once a determination has been made that a case should progress to a disciplinary panel, a panel of three adjudicators shall be appointed in the same manner as the initial adjudicator. This panel shall meet between 14 and 21 days after the adjudicator's determination.

A detailed report of the case to be answered shall be provided to the respondent 7 days before the panel hearing.

The investigator shall be expected to present the case to the panel on behalf of the party. The complainant shall be invited to attend and give evidence to the panel as a witness, as shall the respondent. Both witnesses and respondents shall have the right to be accompanied by a fellow party member who shall not be permitted to speak unless called as a witness in their own right.

While any individuals involved may seek legal advice at any time, at no point shall complainants, witnesses or respondents be entitled to legal representation at panel hearings. Respondents shall also be required to communicate directly with those carrying out the process and shall not be permitted to do so via a third party legal representative.

Once the panel has reached a decision, which, wherever possible, it shall do on the date of the panel hearing, that decision shall be communicated to the relevant parties within 3 working days.

**Referral**

In all cases the disciplinary panel shall reserve the right to refer the case to mediation.

In addition to this, the following decisions shall be permitted:

**No Action**

1. Case dismissed
2. Formal reprimand
3. Training

**Disciplinary Action**

4. Banned from standing for or holding party office (time limited or permanent)
5. Banned from standing for or holding public office (time limited or permanent)
6. Expulsion

Where the panel deems that a complaint was malicious in nature, it also reserves the right to decide action against the individual bringing the complaint, on behalf of the party, for bringing the party into disrepute.

## **APPEAL**

Once the decision of the disciplinary panel has been communicated to the parties concerned, a period of 7 days shall be allowed during which either the complainant or the respondent may apply to appeal the decision. In exceptional circumstances where it is deemed that the Party's reputation is at risk, the Party President shall retain the absolute right of appeal on behalf of the Party.

A request to bring an appeal shall be granted only on the following grounds:

1. That there was a serious failure of process.
2. That a panel decision was wholly against the weight of the evidence.
3. That relevant and probative fresh evidence has since come to light which was not available at the time of the hearing.

Any application to appeal shall be communicated to the central mailbox, which shall have an automatic reply acknowledging receipt, providing proof to the individual appealing that their application to appeal has been formally lodged within the 7-day window.

## **DETERMINATION (Appeals Panel Member)**

The application to appeal shall be considered by an individual member of the appeals panel, who shall be appointed in the same manner as an adjudicator within 7 days of an application to appeal being lodged. They shall then determine, within 7 days, whether or not the grounds of appeal in question may arguably come within any of the three criteria above. If the determination is that they do not, the application to appeal shall be refused and the decision of the Disciplinary Panel shall stand.

## **Appeals Panel**

Where a determination has been made that an application to appeal should be allowed, a panel consisting of three appeals panel members shall be appointed in the same manner as the initial panel member making the determination. This panel shall meet within 14 days of the determination.

The appeals panel shall meet in the same manner as a disciplinary panel, but shall determine whether any of the three criteria stated above applies in the case before them. In the case of criteria 1, if the appeal panel is of the view that the procedural error was so serious that it substantially affected the fairness of the original proceedings, the case shall be remitted to the disciplinary panel for redetermination under fair process. In the case of Criteria 3, the panel shall only decide in the appellant's favour if, in the view of the appeal panel, the fresh evidence would, on a balance of probabilities, have led to a disciplinary panel decision in the appellant's favour had the disciplinary panel heard that evidence. Where the outcome would, in the appeal panel's opinion, have remained the same were the fresh evidence to have been heard, the appeal shall be dismissed.

The appeals panel shall therefore decide one of the following options:

### **Decision upheld**

1. Decision upheld
2. Decision upheld, but feedback given regarding minor failure of process
3. Case remitted to the disciplinary panel for redetermination on the grounds of a serious failure of process

### **Decision overturned**

4. Decision overturned due to new evidence coming to light
5. Decision overturned, as wholly against the weight of the evidence

Once the panel has reached a decision, which, wherever possible, it shall do on the date of the panel hearing, that decision shall be communicated to the relevant parties within 3 working days. [exact details on what should be communicated to whom, to be laid out in guidance at a later stage]

In the case of decision 3, the case shall return to a new disciplinary panel, which shall be appointed in the same manner but shall have no overlap with the previous panel, and the process shall begin again from that point.

In the cases of decisions 1, 2, 4 and 5, there shall be no further right of appeal.

All decisions by the Appeals Panel are final.

## ***Timeline***

Stage 1 – Complaint

Stage 2 – Adjudicator appointed [Days 1-7]

Stage 2 – Determination [Days 7-14]

Stage 3a – Mediation [Days 14-74]

Stage 2b – Investigation [Days 14-28]

Stage 3b – Disciplinary Panel [Days 28-35]

Stage 3b – Communication of Decision [Days 35-38]

Stage 4 – Appeal [Days 38-45]

Stage 5 – Appeals Panel member appointed [Days 45-52]

Stage 5 – Determination [Days 52-59]

Stage 6 – Appeals Panel [Days 59-73]

Stage 6 – Communication of Decision [Days 73-76]

## ***Additional information***

### Confidentiality

Given the often-sensitive nature of complaints being made, for all concerned, a confidentiality policy shall be imposed in all cases. While a case is ongoing, party members shall be expected not to refrain from commenting publicly and may be deemed to have brought the party into disrepute if they choose to ignore this policy.

Where complainants or respondents do choose to voice opinions on the case publicly, the Party reserves the right to make statements in order to make its position on any given matter clear, including on details relating to the case where these have already been made public.

A policy on anonymity shall be compiled for cases involving minors, vulnerable adults and/or sexual harassment and bullying, where the adjudicator (on advice from the Pastoral Care Officer) deems necessary. This policy shall be made publicly available and shall be provided to complainants if their complaint relates to any of the above circumstances.

### Suspension

Suspension is a neutral act which is designed to protect not only the Party and the complainant, but also the respondent. This shall be made clear to all parties involved from the moment a member concerned is suspended from the Party, including the consequences of said suspension. Support shall also be provided for the suspended individual at this point.

A party member may be suspended by one of the following three individuals / bodies:

1. An adjudicator, once appointed to make a determination on a case;
2. The Federal Party's Chief Executive, subject to confirmation by the above adjudicator once appointed;
3. The disciplinary panel, once appointed.

Suspension may last as long as the process is underway, and may continue after a decision has been made, pending implementation of the disciplinary panel's decision, or pending the outcome of an appeal.

### Burden of Proof

In accordance with civil and workplace disciplinary procedures, 'balance of probabilities' shall be deemed an acceptable burden of proof for the purposes of the Liberal Democrats' disciplinary procedures. This shall be enshrined in the constitution.

### ***Proposed definition: bringing the Party into disrepute***

Generally, the party will be 'brought into disrepute' by any course of conduct, act or omission on the part of a member that would substantially lower the party's reputation in the mind of a fair, objective and right-thinking observer.

In particular, an individual shall be deemed to have brought the party into disrepute where:

1. they have been convicted of an offence of dishonesty, violence or a sexual offence of any description;
2. they have acted in breach of any Postal Vote Code of Conduct agreed by the Liberal Democrats with the Electoral Commission or any other external body;
3. they have acted in a manner that would have brought the Party into disrepute were it to be known about outside the Party but which did not become known either by chance or by agreement with the member in question;
4. they have bullied, harassed, sexually assaulted or unlawfully discriminated against another person;
5. they have committed an act of serious violence or an act which resulted in serious damage to property in connection with the business of the Party;
6. they have committed a serious misuse of the property or name of the Party;
7. they have acted in any other way which constitutes a serious breach of the [Members' Code of Conduct](#).

Discretion shall be given to the disciplinary panel to determine whether any of the above apply, most notably where an offence under '1.' conflicts with the stated policy of the Party.

## **Further Recommendations**

In addition to the above proposals, there are a number of recommendations in key areas which are needed to ensure the proposed system functions as designed.

### ***Mediation***

Of primordial importance is a clear, transparent and robust structure for mediation. As with the disciplinary process, volunteers will need to be identified and trained and, as per the recommendation in the Parasram Report, the most effective way of ensuring coverage is for this mediation system to have dedicated individuals identified at a regional level, or a state level in Wales and Scotland. Where possible (especially with the larger regions), these dedicated individuals should be supported by a small team of trained mediators who can share the workload.

This system must function in tandem with the disciplinary processes. Although the mediation should, in my view, remain a matter for the state and regional parties, it can only serve its purpose well if cases and their outcomes are recorded in a central database. This will allow patterns of behaviour to become apparent, and will enable the disciplinary process to run smoothly.

It is my view that any cases should be made known to the Pastoral Care Officer, who shall in this system become the *de facto* head of the mediation process, and shall ensure that all cases are recorded as part of the case logs being taken by the member of staff responsible for administering the disciplinary process (i.e. the individual who shall also administer the central mailbox). Only this level of co-ordination will enable the disciplinary system to function adequately.

It is also essential that the same rules regarding the level of communication provided for those going through the disciplinary process be applied to those going through mediation. There must be

clear guidance provided to both complainants and respondents (or their equivalents in this system), and it must remain very clear who is responsible for communicating what. In my view, the mediator in question should be the central individual responsible for ensuring that documents, decisions and outcomes are reported centrally and to the relevant parties.

In order for this to take place, these mediators will need to be provided with all of the relevant files and specific guidance regarding which documents to send and when. They will also need to have direct access to the Pastoral Care Officer, who shall be expected to advise them on more sensitive cases and can act as a supervisor for the whole process.

### ***Recruitment and Training***

Throughout my report I have made clear that training is essential. I wish to be entirely unambiguous here: unless the Party centrally devotes the resource required to identify and train individuals to act as adjudicators and mediators, none of the reforms proposed will make any difference.

Not only must the Party ensure that adequate training is provided, but this must include experts in specific fields including safeguarding, sexual harassment, etc. In addition, resource must be allocated to ensure this training is regularly renewed. Adjudicators, once identified and trained, must continue to undergo training on a regular basis (possibly via an online course) to ensure they are up to date with the latest developments in these key areas.

In addition, as part of their continued training, adjudicators must have access to the case law being built up within the system, so that if they become adjudicators on any given case they are aware of other similar cases and their outcomes. This will help ensure consistency throughout the system.

On the recruitment of adjudicators (and mediators), it is essential that they be seen as independent arbiters. This means there will need to be a robust recruitment process which hinges on the Federal Board, and Conference thereafter via the Federal Board's report, being satisfied that the individuals appointed as adjudicators will not only be independent, but be seen to be independent.

Adjudicators in particular must not hold any other office in the Party, with the exception of local party office as long as this is declared. While they may become candidates, adjudicators will be expected to step down if elected to any public office.

### ***The media***

One of the trickiest areas for the disciplinary process will be how to deal with the media when a case becomes of sufficient profile to interest them. There are three recommendations which should help in this scenario.

1. A 'Lead Adjudicator' who should ideally be a legal Peer tasked with providing advice to adjudicators where necessary, and shall also be the individual to whom press enquiries shall be directed. Ideally this individual should have a detailed understanding of the process, what support is available and where guidance can be found, and will be aware of the case law as it is developed. They should also understand how to deal with the media and with lawyers who attempt to get involved in the process. This needs to be someone with sufficient authority to protect adjudicators from any attempts to pressure or undermine the process, and from the press.
2. As recommended in the Parasram Report, a statement should be agreed to be used by all those in positions of leadership within the Party, if asked to comment. This is important not only to ensure the leadership is not seen to be unduly influencing the disciplinary process, but also to insulate the Leader in particular.

This will also allow the leadership of the Party to show public support for the process, and therefore for those carrying out the process. It is that confidence in the system which will enable the adjudicators to carry out their work in as effective a manner as possible.

3. Clear guidance issued to relevant parties including the complainant and the respondent on how to deal with press enquires, including standard responses and a clear explanation of the Party's expectations regarding the confidentiality of the process.

### ***Whistleblower Policy***

Whistleblowing has a very specific set of legal protections attached to it, but only for those who are classed as 'workers'. A person is generally classed as a 'worker' if:

- they have a contract or other arrangement to do work or services personally for a reward (the contract doesn't have to be written)
- their reward is for money or a benefit in kind, for example the promise of a contract or future work
- they only have a limited right to send someone else to do the work (subcontract)
- they have to turn up for work even if they don't want to
- their employer has to have work for them to do as long as the contract or arrangement lasts
- they aren't doing the work as part of their own limited company in an arrangement where the 'employer' is actually a customer or client.

Within these parameters, an individual is protected by law if they report any of the following:

- a criminal offence, e.g. fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law, e.g. doesn't have the right insurance
- they believe someone is covering up wrongdoing

Personal grievances (e.g. bullying, harassment, discrimination) aren't covered by whistleblowing law, unless the case in question is in the public interest.

It is already the case under the proposals being put to Conference that any member of the Party with concerns regarding a member's behaviour, be they directly affected by the behaviour in question or not, may bring a complaint. In determining whether the complaint should be upheld, adjudicators shall not be expected to consider whether the individual making the complaint is an affected party. Instead a determination shall be made only concerning the respondent's behaviour as against the criteria set out in new Article 22.5 of the Federal Constitution and according to relevant guidance. This will enable members who have concerns to effectively 'blow the whistle' on unacceptable behaviour, outside of an employment context.

Given the above, and in the knowledge that a whistleblowing policy already exist for Party employees (there is a separate question here as to whether this is suitably advertised), it seems clear from the consultation and interviews that what is actually sought is a policy which would protect the anonymity of complainants, to ensure their reputations were not impinged by bringing a specific complaint.

This will be a key focus of the steering group proposal included in the Business Motion being presented to Spring Conference. While their focus will be quite specifically on determining policies for how to

properly protect those claiming to be victims of sexual harassment, any policy on anonymity of complainants and witnesses in those cases could equally apply to other cases where appropriate. It makes sense, in my view, to ensure that the same policy applies across the board to ensure consistency.

I therefore believe this should be a matter given to the steering group to consider as a priority, with a report back to the Federal Board, ideally to its meeting in May as part of the Disciplinary Processes Review implementation update.

## The cost of not choosing our greener options

Every year for Conference, we spend around £30,000 and use over 2 tonnes of FSC recycled paper on printing copies of agendas, directories, policy papers, and reports to conference

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