



## **INVESTIGATION REPORT:**

### Complaints Handling Processes

in cases of sexual impropriety

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**6<sup>th</sup> December, 2017**

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## A: SUMMARY OF RECOMMENDATIONS

| Support for Complainants |   |
|--------------------------|---|
| 1.                       | Build in a review process after a disciplinary process is complete  |
| 2.                       | Publish a clear Protocol for both Complainants and Respondents  |
| 3.                       | Set out the ethical guidelines that the Pastoral Care Officer ('PCO'), Welfare Officers, other support staff and Disciplinary Officers work to  |
| 4.                       | Ensure that The Party's policy on police referrals is made known to Complainants as soon as a complaint is made   |
| 5.                       | Build upon the current support system for Complainants by implementing the Morrissey recommendations via a Steering Group <sup>1</sup> on Sexual Impropriety Complaints   |
| 6.                       | Add a specific rule to the Members' Code of Conduct prohibiting the misuse of social media in a way that may have the effect of bringing The Party into disrepute   |
| 7.                       | Demystify the role of Headquarters ('HQ') in the disciplinary process by explaining this from the outset of a complaint   |
| 8.                       | Appoint designated and trained Pastoral/Welfare Officers at Conference  |
| 9.                       | Include guidance on accessing pastoral care at Conference in Conference publications  |
| 10.                      | Ensure that each Regional Party has an Officer with specific responsibility for and training in pastoral care/welfare   |
| 11.                      | Arrange safeguarding training for those holding key roles within Young Liberals to take account of the specific sensitivities and risks surrounding young people  |
| 12.                      | Appoint an Advocate for the Complainant (this could be the Welfare/Pastoral Care Officer already working with the Complainant) to share the Complainant's version of events with the relevant individuals or organisations - unless it is essential that the Complainant does so themselves |

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|  | <b>Will require significant Party resources - red shading</b> |
|  | <b>Will require moderate Party resources - yellow shading</b> |
|  | <b>Will require minimal Party resources - green shading</b>   |

<sup>1</sup> I have already identified people who would be willing to be a part of the proposed Steering Group and do not foresee a difficulty in 'recruiting' more.

| Support for Respondents |   |
|-------------------------|---|
| 1.                      | Build in a review process after a disciplinary process is complete  |
| 2.                      | Publish a clear Protocol for both Complainants and Respondents  |
| 3.                      | Set out the ethical guidelines that the Pastoral Care Officer ('PCO'), Welfare Officers, other support staff and Disciplinary Officers work to  |
| 4.                      | Ensure that The Party's policy on police referrals is made known to Respondents as soon as they are notified of an allegation being made against them   |
| 5.                      | Establish a formal support system for Respondents   |
| 6.                      | Add a specific rule to the Members' Code of Conduct prohibiting the misuse of social media in a way that may have the effect of bringing The Party into disrepute   |
| 7.                      | Demystify the role of Headquarters ('HQ') in the disciplinary process by explaining this from the outset of a complaint   |
| 8.                      | Appoint designated and trained Pastoral/Welfare Officers at Conference  |
| 9.                      | Include guidance on accessing pastoral care at Conference in Conference publications  |
| 10.                     | Ensure that each Regional Party has an Officer with specific responsibility for and training in pastoral care/welfare   |
| 11.                     | Arrange safeguarding training for those holding key roles within Young Liberals to take account of the specific sensitivities and risks surrounding young people  |
| 12.                     | Appoint an Advocate for the Respondent (this could be the Welfare/Pastoral Care Officer already working with the Respondent) to share the Respondent's version of events with the relevant individuals or organisations - unless it is essential that the Respondent does so themselves |

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## **CONFIDENTIAL: Investigation Report**

### **Complaints handling in sexual impropriety cases**

| <b>Anonymity for Complainants (and Respondents)</b>   |
|---|
| 1. Publish a clear policy on the current practice in relation to the anonymity of Complainants and Respondents  |
| 2. Ensure that The Party's policy on anonymity (including in relation to police referrals) is made known to the Complainant and the Respondent as soon as a complaint is made or notified |
| 3. Review and regularly update The Party's policy on anonymity via a Steering Group on Sexual Impropriety Complaints  |
| <b>Reporting serious crimes to the police</b>   |
| 1. Publish a clear policy on the current practice in relation to police referrals   |
| 2. Ensure that The Party's policy on police referrals is made known to the Complainant and the Respondent as soon as a complaint is made or notified                                      |
| 3. Review and regularly update The Party's policy on police referrals via a Steering Group on Sexual Impropriety Complaints   |
| <b>Suspension of members following serious allegations</b>  |
| 1. Continue to consider suspension on a case-by-case basis via a Panel  |
| 2. Consider the option of suspending a Respondent in relation to specific activities or locations, for example, attending Conference  |
| 3. Draft flexible guidelines on the exercise of the power of suspension, to be incorporated in the guidance for Disciplinary Officers   |

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| Specific recommendations in relation to the handling of sexual impropriety complaints handling |  |
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| 1.   | Establish a team which specialises in the handling of serious sexual impropriety complaints, drawn from the wider pool of Disciplinary Officers and other relevant professionals and reflecting the diversity of members                                     |
| 2.   | Create a guidance manual for the specialist team working on serious sexual impropriety complaints – this could be actioned via the Steering Group  |
| 3.   | Ensure that relevant members of the serious sexual impropriety complaints handling team have access to a Supervisor  |
| 4.   | Devise an initial training programme for the team which will specialise in the handling of serious sexual impropriety complaints with regular refresher courses – this could be done via the Steering Group  |
| 5.   | Ensure that serious sexual impropriety cases are handled by a team and not by individuals at any key stage of the process  |
| 6.   | Review the paid staffing resource supporting investigations and disciplinary processes   |
| 7.   | Invest in a case management system for logging and administering complaints  |
| 8.   | Draft a standard public announcement of the Party's position on current investigations and keep to it  |
| 9.   | Create a central log of complaints (this could be addressed by investing in a case management system)  |
| 10.  | Set time limits on each stage of an investigation/disciplinary process, with the flexibility to extend or reduce these time limits where appropriate and communicate the timescales to the Complainant and Respondent  |
| 11.  | In controversial or very serious cases, appoint an independent person to oversee the investigation/disciplinary process as soon as the case is identified as requiring this  |
| 12.  | Conduct a simple skills audit to identify Party members who might be willing to lend their expertise to either a Steering Group on Sexual Impropriety Complaints or to become a part of the specialist team working on serious sexual impropriety complaints |
| 13.  | Convey the Party's stance and approach to sexual impropriety to every member in a more effective way – this could be done via the Steering Group   |

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# **CONFIDENTIAL: Investigation Report**

## **Complaints handling in sexual impropriety cases**

### B: INTRODUCTION

- 1) This report sets out my conclusions, following an investigation<sup>2</sup> into internal processes relating to the following five areas of complaints handling in sexual impropriety cases within the Liberal Democrat Party:
  - a) support in the investigations process for Complainants;
  - b) anonymity for Complainants;
  - c) reporting serious crimes to the police;
  - d) suspension of members following serious allegations and
  - e) how The Party can support members appropriately who are accused of serious allegations.
- 2) The focus of this investigation has been entirely on process. It has not been a second investigation into live or previous cases, although many witnesses - as I have described them - have some involvement with a current investigation. This has helped to provide a focus to the investigation, rather than sampling every case on the Party's records.
- 3) This investigation has had a very short timetable as it was triggered by concerns raised by Party members in November in relation to the handling of sexual impropriety complaints within the Party. This Report will feed into a review of the Party's current disciplinary processes by Lord Ken Macdonald, former Director of Public Prosecutions. Lord Macdonald's review is due to be presented to the Federal Board this December (2017).
- 4) Following this, the Federal Board will decide how to take Lord Macdonald's recommendations forward. His recommendations will encompass those recommendations within this Report that Lord Macdonald decides to adopt.
- 5) It is likely that Lord Macdonald's report and the recommendations contained therein will be debated at the Party's Spring Conference.

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<sup>2</sup> The remit of the investigation that is the subject of this Report is contained within Appendix 1.

## C: TERMINOLOGY

- 6) The terms used in this Report have been chosen to make it as easy as possible for the reader to understand the subject under discussion. The subject matter of this Report is extremely sensitive and the use of certain words can trigger reactions and feelings in the reader that can be deep-rooted and complex. I therefore consider it important, at the very start of this Report, to explain the terminology I have chosen and why:

**The Respondent** – the person alleged to have engaged in wrongdoing. Note that this could be a man, woman or non-binary person. The witnesses in this case have almost universally been careful not to label the Respondent as male. This is important, as men are not always the ones who engage in alleged sexual impropriety. Nonetheless, it is fair to say that the majority of cases the Party has had to deal with thus far have involved allegations of sexual impropriety by men against women.

**The Complainant** – the person who has been directly affected by the alleged sexual impropriety. Some witnesses refer to this person as ‘the Victim’, others refer to them as ‘the Survivor’; the latter term is often viewed as a term that allows the person to assert a sense of self and empowerment. For the purposes of this report, I have used the term ‘Complainant’, as the terms Victim and Survivor are usually only used with the relevant person’s permission and the readership of this Report may have strong views on the use of these words, whereas ‘Complainant’ has been relatively uncontroversial in all of my dealings with witnesses thus far.

**The Referrer** – during the course of this investigation, it became clear to me that some Complainants felt a sense of fear or concern that they could be under threat for making a complaint to The Party. In one case, the person who submitted the initial complaint was not the person who had been directly affected by the alleged sexual impropriety. It was important to the Complainant in that case to highlight to me that they were not responsible for making initial contact with the Party or the police - this seemed to be a matter of great focus for them. The reasons for this distinction are discussed elsewhere in this Report, as this is not an uncommon phenomenon. Where appropriate, therefore, I make reference to a ‘Referrer’ where

the Complainant themselves were not responsible for bringing the alleged sexual impropriety to the attention of the appropriate authorities.

**Sexual impropriety** – this includes sexual harassment, sexual assault, sexual abuse, and any conduct of a sexual nature that is without consent, or has the effect of threatening or intimidating the person against whom such conduct is directed. I have used this term because some of the conduct I have heard about includes what is viewed as the ‘grey area’ of inappropriate touching or inappropriate discussion that could, depending on the circumstances, fall within the category of accidental touching, flirting or banter.

**‘Low-level’ sexual impropriety** – this is used to describe sexual impropriety that may not reach the threshold of criminal activity. It is important to state that the use of the term ‘low-level’ is used for ease of discussion and not because sexual impropriety that does not involve criminal activity is viewed as acceptable. It is not. I should flag here that witnesses from all categories used the term ‘low-level’ when trying to differentiate actions and consequences. All of them went to great lengths to stress that the use of the term did not deny the impact of sexual impropriety on the Complainant, regardless of the ‘level’ of it.

**Criminal allegation** - an action that is punishable by law. This term can cover a variety of offences including rape, sexual assault, offences against children, and those related to prostitution, extreme pornography and the possession and distribution of indecent images. I make the distinction between a criminal allegation and ‘low-level sexual impropriety’ because there is some sexual impropriety that may not be punishable under the law, for example, sexual jokes, hugging or staring in a sexually suggestive way. This can be an area of ambiguity because there is legislation that can protect Complainants in certain circumstances. For example, sending a person unwanted messages could be charged under the Protection from Harassment Act 1997 and fondling could come under the Sexual Offences Act 2003.

**‘Serious’ sexual impropriety** - sexual impropriety that may reach the threshold for criminal activity. It is important to state that the use of the term ‘serious’ is used for ease of discussion and not because

serious sexual impropriety is the only type of allegation that The Party or the police will investigate. I should highlight here that witnesses from all categories used the term 'serious' when trying to differentiate actions and consequences. All of them emphasised that the use of the term did not deny the impact of sexual impropriety on the Complainant, regardless of the 'level' of it.

**Disciplinary Officers** – I have used this term to describe all of those involved in the investigatory and disciplinary process, including the Investigator, those sitting on the Disciplinary Panel, members of the Appeal Panel and so on.

#### D: CURRENT PRACTICE WITHIN THE PARTY

- 7) There have been very few complaints made about sexual harassment in the history of the Party, although those that have been made have sometimes become the subject of media scrutiny.
- 8) Most of these types of complaints have either been made directly to the Pastoral Care Officer (PCO) or have been channelled through her. Upon receipt of a complaint, the PCO logs it and then usually passes it to the relevant Party to decide whether an investigation needs to take place.
- 9) If an allegation involving a crime is reported directly to the Pastoral Care Officer, she will report it to the police, with or without the Complainant's consent, although it is her personal practice that she does not pass on the name of the Complainant unless the Complainant has given consent for this specifically.
- 10) If an allegation involving a crime is reported to another Party Officer, the Pastoral Care Officer supports the Party Officer in ensuring that the allegation is reported to the police as part of the Party's duty of care, not only to the Complainant, but to the Respondent and to other members of the Party, whom it has a duty to protect.

- 11) If the police decide to investigate, the Party does not commence or continue with<sup>3</sup> an internal investigation, as to do so may prejudice future criminal proceedings.
- 12) If the matter is not appropriate for police referral or has not been pursued by the police, the relevant Party then decides whether to investigate or continue investigating the complaint.
- 13) Throughout this process, the relevant Party considers whether or not to suspend the Respondent.
- 14) If the Party decides to investigate, an Investigator is appointed. They make a report and a disciplinary panel may conduct a hearing or may decide, solely based upon the report, whether the Respondent has broken any Party rules.
- 15) If the Respondent is deemed to have broken a Party rule, an appropriate sanction is applied.
- 16) Both the Complainant and the Respondent have the right to appeal in certain circumstances. This can be a two-stage process. The Appeal is handled by a separate Panel, although the investigation, disciplinary process and Appeals process can be advised upon or administratively supported by the Pastoral Care Officer and the Compliance Team at Party Headquarters ('HQ') from beginning to end.
- 17) The current system was put in place by the Pastoral Care Officer and the State Parties following an independent inquiry into processes and culture within the Liberal Democrats, which culminated in the 2013 Morrissey Report<sup>4</sup>. Prior to this, there was no standard structure in place for dealing with complaints.
- 18) There is now documentation in place on the main Party website, providing information for both Complainants and the Respondents, as well as Disciplinary Officers engaged in the investigation/disciplinary process. There are some variations in the way in which investigations

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<sup>3</sup> I refer to 'continuing with an investigation', because a police referral may occur at any stage of the process, depending upon what allegations are made and when

<sup>4</sup> The reference for the Report is contained within Appendix 4 – Background Reading.

and disciplinary matters are approached across England, Scotland and Wales.

- 19) Due to ongoing changes in modern society, including the greater willingness of Complainants to come forward, blurred boundaries of what is acceptable behaviour and what is not, the increasing influence of drugs and alcohol and so on, disciplinary processes that had previously been put in place across a range of organisations now need to be adapted to cope with changing culture.
- 20) This is the case with the Liberal Democrat Party, which has recognised that there is a need to review its processes and update them, if necessary and to do so on an ongoing basis.
- 21) The Party has been working on this since the Morrissey Report was published in 2013 and continues to do so. In light of recent national and international events, the Party is keen to ensure that this happens as soon as is feasible, hence the commissioning of this investigation and the bringing forward of the timetable for the publication of Lord Macdonald's report.

## E: THE CONDUCT OF THIS INVESTIGATION

- 22) In order to conduct this investigation, I interviewed a range of witnesses, numbering eighteen in total, some of whom I interviewed more than once. Interviews took place between 15<sup>th</sup> November, 2017 and 1<sup>st</sup> December, 2017 and were conducted face to face wherever possible. Where this was not possible, interviews were conducted via videocon or telecon.
- 23) Some of the witnesses were suggested to me by the Pastoral Care Officer and the Party President. Others were referred to me by witnesses whom I had interviewed. The remaining witnesses came forward of their own volition.
- 24) The witnesses fell into the following categories:  
  
Policy and procedure witnesses (compliance)  
Policy and procedure witnesses (safeguarding)

Complainant witnesses  
Advocates for Complainant witnesses  
Executive Disciplinary Officer witnesses  
Disciplinary Officer witnesses  
Welfare/Pastoral Care Officer witnesses  
Executive Chairperson witnesses  
Minority Group Chairperson witnesses

- 25) Albeit, throughout the investigation, I have referred to the witnesses using codes, due to the general nature of this investigation and the desire for some witnesses not to have their input attributed to them, I have not referred to witnesses on an individual basis within this Report, whether by name or by code<sup>5</sup>.
- 26) I also received input from three members of administrative staff linked to this investigation and a Parliamentary Spokesperson with a number of key roles within the Party, the latter of whom approached us with ideas to incorporate.
- 27) Of the witnesses I had aimed to interview, I was unable to interview those who did not respond to my invitation. This included one witness in the 'Complainant category', one witness in the 'advocates for the Complainant category' and one witness in the 'Respondent category'.
- 28) At the start of each interview, I checked that there were no conflicts of interest between the witness and me. I was satisfied, along with all of the witnesses, that there was no conflict of interest with any witness.
- 29) At the start of the investigation, I disclosed to the Party President who commissioned me, that I had previously made four comments via personal exchanges with friends/colleagues in relation to sexual harassment. As these did not present any indication of partiality, I did not consider that there were any grounds to recuse myself from the conduct of this investigation on the basis of bias or perceived conflict of interest.

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<sup>5</sup> The identities of the witnesses are contained in a Confidential Appendix, which will be disclosed solely to the Party President for data protection reasons.

- 30) The Party President was my key contact for the commissioning of this investigation, although most day-to-day issues were handled with her Chief of Staff in order to ensure that I was able to maintain my independence – something that the Party President was keen to preserve.
- 31) During the course of this investigation, I engaged in limited correspondence and discussion with the Party President and briefly spoke to the Party Leader, although the latter took place outside of the confines of this investigation. I am satisfied that those communications did not put me into a position of conflict of interest, nor did they breach my independence. I kept this consideration under constant review and sought ethical advice on a confidential basis from The Bar Council and a Judge mentor whenever necessary.
- 32) I also met with Lord Ken Macdonald at the start of my investigation to discuss his draft recommendations and will, if possible, meet with him again to discuss mine.
- 33) I am aware that, due to the short timescale within which I was working, I may not have had the opportunity to interview everyone who might have had valuable input into this investigation.
- 34) This may mean that I am not aware of impending changes to investigation/disciplinary processes that may impact upon some of the recommendations in this report. It may also mean that I am not fully apprised of all of the systems that are currently in place. I anticipate that debate at Conference on the disciplinary review – which will incorporate some or all of my recommendations - may serve to address some of these limitations.

## F: THE STANDPOINT OF COMPLAINANTS

- 35) In interviewing witnesses as part of this investigation, it is clear that Complainants making allegations of sexual impropriety are sometimes impacted and motivated by different factors from other types of Complainant.
- 36) These include:

- a) The fear of reprisals from the Respondent or those acting on behalf of the Respondent. In one example I was given, the Respondent had knowledge of where one of the Complainants lived. He (the Respondent), shouted out the Complainant's address in a public place during an altercation and confirmed that a third party known to him lived near the Complainant and might pay the Complainant a visit. This had the effect of making the Complainant live in a state of fear.

Although it has been pointed out by another witness that the proper means for dealing with this kind of threat is via civil litigation or the police, both of these means are problematic in themselves for Complainants, as described below.

- b) Knowing that the police require evidence that meets the standard of the criminal burden of proof – 'beyond reasonable doubt'. This means that a Complainant can take the view that, in a case involving no independent witnesses to an incident, it is unlikely that they will be believed. Concerns about the police process - which can involve intimate examinations and questioning about personal matters - can mean that the Complainant has to re-live the alleged trauma in what can be a sterile, unsympathetic environment. Complainants can also dread the harrowing cross-examination that they may have to face, which could expose personal and intimate details about their lives. They can be anxious about being put into a vulnerable position in which they are judged by strangers. This can have the effect of perpetuating the feelings of blame and self-hatred that can often stem from being the victim of sexual impropriety.

Having discussed this with a witness who experienced a serious sexual assault (outside of The Party) and who has legal training and experience, even they stated that they would never wish to involve the police. This is despite that fact that the incident had had a significant impact upon their mental and physical wellbeing. The witness took the view that, because the incident was historic and the subsequent police intervention would require even more persuasion on their (the witness') part than a more recent incident might, it was not something they wish to pursue.

- c) *Worry that, if they make a complaint, The Party will automatically refer the case to the police, regardless of their consent.* A Complainant may already be feeling powerless because of the alleged experience they have been through. The fear of having decisions taken away from them and/or the concern that they will not be provided with proper support in making decisions that they are reluctant to make could prevent them from coming forward with a complaint.
- d) *The treatment of Complainants has, historically, been perceived as inadequate.* This reputation is difficult to overcome and there are times when Complainants make a decision about whether or not to trust the current process based on what has happened in the past, what may have happened to others or what they have heard, even if the anecdotal evidence they are relying on may not be entirely true. This can then create a cycle of Complainants failing to come forward who then express concern that they cannot come forward, which, when shared publicly, deters other Complainants from coming forward.
- e) Concern that their names and details of the allegations may be freely shared within the Party. They worry that this could lead to an impact on their progress within the Party, of being seen as a 'troublemaker' or as someone who is not willing to put the Party before their own welfare. There was a strong belief expressed by some witnesses that the Party would put its own public image before the welfare of its members.
- f) *Putting the Party before their own welfare* – one Complainant did not make a complaint about an assault at Conference because they did not want to affect the Respondent's or The Party's reputation.
- g) *The desire to protect their families by ensuring that their parents/carers or other loved ones do not find out about an alleged assault.*
- h) *A Complainant who has allegedly been attacked may, as a consequence, have a very low sense of self-esteem and may lose confidence.* They may struggle with thoughts that they may have contributed to the attack or that they may have caused it or encouraged it. As a result, they may doubt themselves. They may

therefore feel that, if they share what has happened, others will doubt them too, so they may decide not to confide in anyone.

- i) *Wanting matters to be resolved in ways that might seem unusual to the outside observer when compared to the scale of complaint that they are making* – a reprimand, a written warning and so on. The drive behind this seems to be aimed at ensuring that the Respondent gains an awareness that their behaviour is unacceptable and has been noted, whilst creating as little ‘fuss’ as possible. One witness described their feelings on being groped as this: *“I wanted someone to nip the issue in the bud. I wanted him to be told that he was a bit of an idiot. I did not want him to be garrotted.”* As The Party's reaction to the alleged groping was to seek to refer the matter to the police, the Complainant felt that The Party was not taking her feelings *“...as an adult, grown up lady...”* into account.
- j) *The perception that the disciplinary process is Respondent-focussed, rather than Complainant-focussed* and is therefore automatically sympathetic to the Respondent, whilst automatically disbelieving the Complainant.
- k) *Discomfort with being a sole Complainant.* Complainants seem to gain courage from knowing that they are not the only Complainant and some have stated that they would put forward a complaint only if they knew that others were also doing so.
- l) *Losing their anonymity.* Complainants seem to draw a distinction between being identified to a Respondent whom they do not know or have contact with, with being identified to a Respondent who is known to them and whom they might see regularly. It may be that, being in a relationship - of whatever nature - with the Respondent, makes it much more difficult for a Complainant to either come forward or to want to pursue a complaint. This may be due to the fact that the Complainant is at risk of uncomfortable and potentially unavoidable interactions with the Respondent if the relationship they have becomes damaged by the Complainant's complaint. Although this disregards the damage caused by the alleged abuse by the Respondent, Complainants seem prone to focus on their own actions in causing a change in the terms of the relationship.

m) *Complainants can sometimes have difficulty in appearing to be responsible for triggering a complaint.* As previously mentioned, Complainants can be keen to ensure that the person who initially submits the complaint is not them. The desire of some Complainants to be seen as passively engaging in the complaints process, rather than proactively escalating matters, seems to have roots in the feelings of shame and self-blame for what is alleged to have happened. It also seems to stem from a misplaced sense of responsibility for a negative outcome for the Respondent.

## G: THE STANDPOINT OF RESPONDENTS

- 37) Almost every witness was keen to ensure that Respondents are viewed as innocent until proven guilty. There was also a general consensus that, if anonymity were to be granted to the Complainant, that, where possible, this should be granted to the Respondent as well.
- 38) Although I was not able to interview anyone who might fall within the category of the Respondent, there were considerations that were raised via other witnesses that in some ways do reflect the position of the Respondent:
- a) The Respondent stands to lose their reputation and their career within the Party if false allegations are made against them or if they are not put into a position whereby they can adequately defend themselves.
  - b) The Respondent could face criminal charges as well as loss of liberty, their job, their future prospects and access to children (including their own). This could lead to severe limitations to their ability to engage in society.
  - c) During the period of an investigation, the Respondent can suffer a negative impact upon their mental health, due to the strain of an ongoing investigation. This impact upon their mental health is differentiated from other pressures and consequences upon the Respondent's mental health deriving from other aspects of being accused, as the 'pending' state can have its own unique ramifications.

- d) If suspended, they could lose their ability to function within the Party. The damage caused, simply by the public nature of the suspension - which, in many cases, could become public by virtue of the Respondent's 'disappearance' from Party life - could be lasting.
- e) The Respondent can operate under the belief that the investigation and disciplinary process is Complainant-focussed, rather than Respondent-focussed or equally focussed, particularly if they take account of the way in which various high profile sexual impropriety scandals are reported in the media. Current reporting on cases involving sexual impropriety in the entertainment industry, in politics and in other sectors seems to operate under the assumption that, if more than one allegation is made against the Respondent, they are automatically guilty. Anyone who expresses a view to the contrary is viciously attacked. This can create an impression, in the mind of the Respondent, that this is also how The Party and the police would view them.
- f) An allegation made against a Respondent, whether true or false, may leave them feeling extremely distressed or even suicidal as a result. It can seem as if the full force of the Party and the State has come against the Respondent, whilst taking the opposite stance with Complainants by supporting them. In some cases, it may seem that the Party and the State are encouraging a Complainant who is attempting to frame them, the Respondent. The Respondent may feel completely powerless to defend themselves, particularly if they do not have the full facts of the allegations. They may be unable to afford good quality legal advice. They may face the weight of feeling 'convicted' through the judgement of others. They may be unable to carry on working, either due to the stress of the allegations or because they have been suspended from work. In some cases, this can lead to self harm and possible suicidal feelings or attempts at suicide.
- g) Most Respondents will feel fear and anxiety with what will often be their first contact with the police. This may be exacerbated if the Respondent is facing what they deem to be false allegations.

- h) The Respondent may have to bear responsibility for supporting friends and relatives. This can present them with significant difficulties, as they may have little control over how their friends or relatives react to the situation and may struggle to balance providing support to others and receiving support for themselves at the same time.
- i) The Respondent may face the risk of loss of the support of friends and relatives. These relationships may end completely.
- j) Their sense of self-esteem may degrade and false allegations could cause an attack on their personal integrity with emotional damage as a consequence. This may even lead to psychological illness. The Respondent may feel that they have no place in society.
- k) Some people may interpret an accusation of sexual impropriety as definitive proof that the Respondent has committed the crime. This can lead to stigmatisation which may limit the Respondent's life chances and opportunities – those around them or who encounter them may be fearful of them or may seek to limit the Respondent's contact with the vulnerable.
- l) The impact on the Respondent as described above can be worsened when they are placed in the public spotlight, through media attention or discussions on social media, over which they can have limited control. The interest of the media can be heightened when the Respondent is a public figure or semi-public figure, as may be the case with a member of The Party. Although some witnesses have discussed the availability to the Respondent of pursuing defamation proceedings, in reality, this option is open only to a privileged few. This can leave the Respondent feeling defenceless and powerless to respond to what can be openly hostile attacks.

## H: LIST OF RECOMMENDATIONS

If the Federal Board were to decide that The Party should consider implementing the following recommendations, it is important that members recognise that it will take time to do so. Even the witnesses who had previously wanted immediate action commented that they felt that the investigation timetable was a little rushed. There was an overriding sentiment of being willing to believe that The Party has a commitment to change whilst wanting to see a realistic timetable for it. As one witness stated, the work that has to be done to has to be “...*measured and paced...*”

- 1) Build in a review process after a disciplinary process is complete
- 2) Publish a clear Protocol for both Complainants and Respondents
- 3) Set out the ethical guidelines that the Pastoral Care Officer (“PCO”), Welfare Officers, other support staff and Disciplinary Officers work to
- 4) Ensure that The Party’s policy on police referrals is made known to the Complainant and the Respondent as soon as a complaint is made or notified
- 5) Set up a Steering Group on Sexual Impropriety Complaints to do the following work:
  - a) Build upon the current support system for Complainants by implementing the Morrissey recommendations
  - b) Review and regularly update The Party’s policy on anonymity
  - c) Review and regularly update The Party’s policy on police referrals
  - d) Create a guidance manual for the specialist team (see below) working on sexual impropriety complaints
  - e) Devise an initial training programme for the team which will specialise in the handling of sexual impropriety complaints with regular refresher courses
  - f) Convey the Party’s stance and approach to sexual impropriety to every member in a more effective way
- 6) Add a specific rule to the Members’ Code of Conduct prohibiting the misuse of social media in a way that may have the effect of bringing The Party into disrepute
- 7) Demystify the role of Headquarters (‘HQ’) in the disciplinary process by explaining this from the outset of a complaint
- 8) Appoint designated and trained Pastoral/Welfare Officers at Conference
- 9) Include guidance on accessing pastoral care at Conference in Conference publications

- 10) Ensure that each Regional Party has an Officer with specific responsibility for and training in pastoral care/welfare
- 11) Arrange safeguarding training for those holding key roles within Young Liberals due to the specific sensitivities and risks surrounding young people
- 12) Appoint an Advocate for the Complainant (this could be the Welfare/Pastoral Care Officer already working with the Complainant) to share the Complainant's version of events with the relevant individuals or organisations<sup>6</sup>
- 13) Appoint an Advocate for the Respondent (this could be the Welfare/Pastoral Care Officer already working with the Complainant) to share the Respondent's version of events with the relevant individuals or organisations<sup>7</sup>
- 14) Establish a formal support system for Respondents
- 15) Publish a clear policy on the current practice in relation to the anonymity of Complainants and Respondents
- 16) Ensure that The Party's policy on anonymity (including in relation to police referrals) is made known to the Complainant and the Respondent as soon as a complaint is made or notified
- 17) Publish a clear policy on the current practice in relation to police referrals
- 18) Ensure that The Party's policy on police referrals is made known to the Complainant and the Respondent as soon as a complaint is made or notified
- 19) Continue to consider suspension on a case-by-case basis via a Panel
- 20) Consider the option of suspending a Respondent in relation to specific activities or locations, for example, attending Conference
- 21) Draft flexible guidelines on the exercise of the power of suspension, to be incorporated in the guidance for Disciplinary Officers
- 22) Establish a team which specialises in the handling of sexual impropriety complaints, drawn from the wider pool of Disciplinary Officers and other relevant professionals and reflecting the diversity of members
- 23) Ensure that relevant members of the sexual impropriety complaints handling team have access to a Supervisor
- 24) Ensure that serious sexual impropriety cases are handled by a team and not by individuals at any key stage of the process
- 25) Review the paid staffing resource supporting investigations and disciplinary processes

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<sup>6</sup> Unless it is essential that the Complainant does so themselves

<sup>7</sup> Unless it is essential that the Respondent does so themselves

- 26) Invest in a case management system for logging and administering complaints
- 27) Draft a standard public announcement of the Party's position on current investigations and keep to it
- 28) Create a central log of complaints (this could be addressed by investing in a proper case management system)
- 29) Set time limits on each stage of an investigation/disciplinary process, with the flexibility to extend or reduce these time limits where appropriate and communicate the timescales to the Complainant and Respondent
- 30) In controversial or very serious cases, appoint an independent person to oversee the investigation/disciplinary process as soon as the case is identified as requiring this
- 31) Conduct a simple skills audit to identify Party members who might be willing to lend their expertise to either a Steering Group on Sexual Impropriety Complaints or to become a part of the specialist team working on serious sexual impropriety complaints

## I: RECOMMENDATIONS EXPLAINED

### **1. Build in a review process after a disciplinary process is complete**

It seems that this good practice exists in some areas of the Party but not in all.

### **2. Publish a clear Protocol for both Complainants and Respondents**

There appears to be some confusion about what a Complainant should expect once they have made a complaint and what the Respondent should expect following a complaint. Clarity is required from the very outset or even before the complaint is made, as to what the Party will and will not do and what it can and cannot provide. Examples of matters to be covered in the Protocol are set out in Appendix 6.

### **3. Set out the ethical guidelines that the Pastoral Care Officer ("PCO"), Welfare Officers, other support staff and Disciplinary Officers work to**

An example of this is that if a Party Officer presents the PCO with the name of a Respondent or Complainant that she has come across in relation to similar complaints which may identify a pattern of behaviour, the PCO will flag this to the Officer.

Another example is that Party Officers have to be proactive in identifying complaints. Even if a potential Complainant does not frame a complaint in a formal way, if the Party Officer identifies that there are grounds for a complaint, they have a duty to log one.

A third example is managing confidentiality. During the course of this investigation, several witnesses went to great lengths to protect the confidentiality of those whom they had dealt with via investigations and disciplinaries. Many only agreed to speak to me on the basis of a general discussion without reference to specific individuals or cases. Some reiterated this stipulation before commencing their interviews. They then went on to provide me with useful information and input into this investigation without compromising anyone's confidentiality. If this approach reflects the general levels of adherence to a moral code that has great respect for the confidentiality of those involved in the investigations/disciplinary process, then this needs to be recognised and underlined to members.

As part of setting out the ethical guidelines, it may assist members if they understood the role and background of the Pastoral Care Officer, in order to encourage Complainants to seek her support and assistance, which some Complainants seem reluctant to do. One witness suggested that the Pastoral Care Officer might be biased because she is funded by the Party, even though there is no other means through which to employ one.

It is not widely known that the Pastoral Care Officer is not a member of the Party, nor that her former practice as a midwife and Trade Union officer has prepared her for being able to act independently regardless of the fact that the Party is her employer. The assumption that the Pastoral Care Officer is "*...embedded within the Party...*" is inaccurate. Though it is true to say that the Pastoral Care Officer works with a wide range of members and staff, she has stated and expressed in practice, that she will not compromise her duty of care to members for the sake of the Party. If her background and ethical code were more widely known, this might encourage members to make use of her support.

#### **4. Ensure that The Party's policy on police referrals is made known to the Complainant and the Respondent as soon as a complaint is made or notified**

#### 5. Set up a Steering Group on Sexual Impropriety Complaints

A few of the witnesses have raised concerns that this investigation should not be used as a means of appearing to address 'hot topic' issues with no real commitment to detailed work on them. Ongoing work needs to be done in this area, not only because I am of the view that change in this area has to be a part of a continual process, but because the Party needs to be seen to be making a commitment to this, in order to win back the confidence of those who have lost faith in it.

That is why I think that it is desirable to set up a Steering Group to review, update and monitor the Party's handling of sexual impropriety cases to ensure that the Party stays current with best practice and changes in case law that impact upon its duty of care to its members, including both the Respondent and the Complainant. This group should specifically include those members of the Young Liberals and minority groups who are responsible for disciplinary matters and/or welfare as well as representatives of both Complainants and Respondents.

Having interviewed eighteen witnesses, there are at least four of them, possibly more, who are experts in their respective fields through which they cover different angles of cases of this nature in their professional lives and who would be willing to lend their skills to such a Steering Group.

A few have expressed the desire to assist the Party in strengthening its practices in this area. Some have had experience of doing so within similar organisations, that is, nationwide voluntary organisations with limited resources. They have conveyed that it is possible to work to minimum standards in safeguarding, even within an organisation that faces the challenges that a political Party has to face. They have

connections with other organisations from whom the Party could copy best practice and adapt it to suit the Party's specific needs.

**a. Build upon the current support system for Complainants by implementing the Morrissey recommendations**

The 2013 Morrissey Report was an independent inquiry into processes and culture within the Liberal Democrats. It outlined a blueprint for change, after a series of high profile allegations that the Party had failed to act on complaints of sexual harassment. It contained a number of recommendations that were later reviewed by Helena Morrissey against progress in 2014. Her recommendations in 2014 were as follows:

- 1) After the 2015 General Election, review and simplify the Party's organisational structure. Aim for a structure that combines high consistent standards at all levels with local decision-making.
- 2) Implement the Respect Policy and new, amended complaints, grievance and disciplinary processes. Introduce deadlines for each stage of the grievance and disciplinary stages and ensure these are communicated to both Complainant and the person complained against. Identify and train investigators to select from – and refresh this group periodically.
- 3) Continue all the programmes underway to promote a diverse and inclusive culture – unconscious bias training, identification of local mediators and investigators, regional volunteer team leaders, Candidates Leadership Programme – but make more training mandatory. Spell out examples of bullying and harassment – use the website.
- 4) Ensure the feedback loop is sustained – keep surveying staff, volunteers and members and prioritising actions.
- 5) Tackle distrust. For example, ensure that a Complainant is respected throughout the process and guard against intimidation. Use the Pastoral Care Survey to gauge whether progress is being made.

- 6) Continue to encourage more early mediation around developing conflicts or complaints. Ensure that those trained to mediate can spot the signs when this route has been exhausted.
- 7) When a case is escalated to the Pastoral Care Officer, establish and communicate a timetable for all stages of the investigation and disciplinary processes.
- 8) At the conclusion of investigations, if the complaint is upheld, ensure the perpetrator is censured.
- 9) If resolution proves elusive, devise a way of achieving closure: fostering a culture of forgiveness is the highest goal. At a minimum, consciously seek to eliminate grudges.

Some of these recommendations have been actioned and some are in the process of being actioned. In order to ensure that these remaining recommendations are implemented, I am of the view that the Steering Group referred to in this Report, if set up, should take responsibility for this.

In addition, there are other measures that can be taken to build upon the work currently being done by the paid staff involved with complaints handling. Based on the evidence of most non-Complainant witnesses, it seems that this support is both professional and competent. However, there can be difficulty for Complainants in accessing it.

There is also a considerable problem with Complainants' perception of the level and quality of support offered, with evidence from some witnesses suggesting that many Complainants mistrust those currently offering support, with the perception that they are not independent. The reasons for this are complex and varied and are based partly on the past handling of complaints that have little to do with the current team.

One of the answers to this may be to restructure the current team (already recommended in this Report) to ensure that Complainants

have access to more than one person, in circumstances where, for example, one of the team is unavailable or where there is a personality clash between that member of staff and the Complainant.

If Complainants could be persuaded to access the support currently available and could in fact, access it at their first attempt, it would be easier to put in place measures for their support such as signposting them to specialist services, where necessary.

Other measures that would encourage an environment of support for Complainants would be ensuring that someone (an 'Advocate') can take responsibility for sharing the details of the complaint with any relevant person or organisation where direct communication from the Complainant is not necessary. This would avoid having the Complainant relive the alleged trauma time and time again.

One witness, stated that we need to have a "*...complaints procedure which believes the victim and welcomes investigation.*" A large part of creating such a procedure is the initial contact between the Party and the Complainant and, if the problems surrounding this can be addressed, it will go a long way towards changing Complainants' perceptions of how they are treated.

**b. Review and regularly update The Party's policy on anonymity**

At present, The Party's policy on anonymity is that, if a complaint is referred to the police and the Complainant consents to their name being disclosed, it is. If the Complainant does not give consent, their name is not disclosed, but the complaint is referred anyway. With all police referrals, the Respondent's name is disclosed.

If the complaint is investigated internally, the Complainant's name is disclosed to the Respondent. It appears that the Complainant is usually informed of this, rather than being asked for their consent to this.

During an internal process, both the Complainant and the Respondent retain their anonymity and their names are not disclosed publicly<sup>8</sup>.

During a police process, the name of the Complainant remains anonymous. The police may disclose the name of the Respondent to the public if the case proceeds (with some legal exceptions, such as, if the Respondent is a juvenile, for example.)

It is important to note that, in relation to anonymity, the position of any organisation is not one clearly dictated by law. It can be unique to the organisation and is usually based upon case law, policies and procedures and best practice covering a range of areas of expertise. Examples of the specialist fields that can inform a policy on anonymity are the criminal law, employment law, safeguarding practice, sexual abuse handling protocols and so on.

The current Liberal Democrat policy on anonymity is compliant in that it does not conflict with any foundational guidelines on the matter. I therefore think that, to introduce a change to the policy based solely upon the investigation I have conducted is not warranted at this stage, not least, because any change to the policy would have to be accompanied by the required infrastructure and resource to put it in place. On balance, the damage that could be done by too hasty a change in policy outweighs any potential risks attached to the continued application of the current policy.

However, I would suggest that the Steering Group should, as part of a best practice approach to the handling of cases of sexual impropriety, both review and continue to review The Party's position on anonymity.

The views on anonymity vary widely and sit so far on both extremes that, to find a 'best fit' for The Party and its members at any given time requires ongoing analysis and consideration by key stakeholders, all of whom may have different perspectives on the matter.

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<sup>8</sup> If the case is already in the public domain and, if the case against the Respondent is proved, The Party may disclose the Respondent's name and state what action it has taken.

For example, I know, from experience, that it is possible for those involved in a sexual impropriety case to remain anonymous via mechanisms such as using codenames for those involved, allowing evidence to be given behind closed screens and particulars of offences to be supplied in a way that both parties are content with the level of sharing of information. I also note that a key witness, with significant historical professional experience of dealing with such matters, is of the view that cases can be reported to the police without providing the Complainant's name if that is their wish and that this can lead to a successful police investigation.

However, I can also see the conflict with the principles of natural justice that would require that a Respondent be fully apprised of the case against them in order to be able to properly defend themselves. This is of particular concern to those witnesses who have a legal or quasi-legal background or experience. They have highlighted how essential it is to the Respondent to be able, for example, to demonstrate that a Complainant may have colluded with others to falsely accuse them or may have a history of themselves harassing the Respondent. Witnesses expressing this point of view consider that the risk of a person being wrongly 'convicted' outweighs the risks to the Complainant of being identified.

As an internal investigation/disciplinary process is not a purely legal process, there is some room for flexibility. The issue is very complex and is constantly evolving. A Steering Committee, made up of a range of professionals and key stakeholders in this area, is therefore the most appropriate forum to take this forward to ensure that any change in policy is ongoing, rather than a standalone, singular decision.

### **c. Review The Party's policy on police referrals**

The current practice where a complaint falls within the category of an allegation of a criminal offence, is for the case to be reported to the police, regardless of the Complainant's consent. What can then happen, is that the Complainant may or may not co-operate with the police. If they do not, it is highly likely that a criminal case will not proceed. If it does not, this leaves The Party in some difficulty

in terms of proceeding with an internal investigation on the same facts. It can be done and other organisations do so, for example, an employee accused of theft may not be found guilty through a criminal process, but can still be dismissed on the basis of an internal investigation by an employer. However, there is discomfort from some witnesses in taking this approach in relation to sexual impropriety cases in particular, as the stakes are so high for all involved.

If a case is investigated by the police, The Party can do very little whilst the investigation is continuing, as any action by The Party may prejudice the police investigation. The downside of this is that a police investigation can take some time.

It can be of some benefit to both the Respondent and the Complainant to have the police involved, as the police have a greater capability of either proving or disproving the case, though the higher burden of proof is a barrier for many Complainants. As one witness pointed out, the police have greater investigatory powers and forensic training to enable them to conduct an investigation into a crime with an integrity that the Party – or any ‘lay’ organisation – might lack.

It is imperative, with cases such as these, to ensure that Complainants understand why the Party refers cases involving a criminal allegation to be dealt with by the appropriate body. This explanation might also provide reassurance for a Complainant that the Party, rather than shirking its responsibilities by making police referrals, is actually complying with them. The debate on police referrals seems to centre around three issues:

- i) Whether the Complainant’s name can or should be passed on without their consent
- ii) How the Complainant is told about the police referral and what level of support they are offered
- iii) Whether the complaint should be referred at all - one witness with significant experience of cases like these was of the view that a police referral can be delayed or, in rare cases, might not be appropriate at all if, for example, if it

could trigger such a severe reaction in the Complainant that their life could be at risk.

At present, I would recommend that the current policy remains in place. As one of its tasks, the Steering Group can consider the matter in detail and on a regular basis, to take account of regular developments in best practice and so on. My recommendation that the status quo is maintained is for similar reasons to those set out in my recommendations in relation to The Party's approach to anonymity above.

The current administrative setup and personnel resource does not allow for the level and expertise of counselling and risk assessment required to change The Party's practice on police referrals at present. If there were to be a change in policy, it would have to be accompanied by changes in professional input into cases like these and this would have to be put in place with some planning.

The current policy is compliant, in the sense that it falls within a range of approaches that is acceptable. Thus, as with The Party's policy on anonymity, the risk of potential damage resulting from changing The Party's policy without due caution outweighs any potential risks of continuing to apply the policy as it stands.

**d) Create a guidance manual for the specialist team working on sexual impropriety complaints**

See Appendix 8

**e) Devise an initial training programme for the team which will specialise in the handling of sexual impropriety complaints with regular refresher courses**

At present, it appears that Disciplinary Officers are either chosen on the basis of their skills, knowledge and experience or appointed by virtue of their elected position. It seems that there is also a high turnover of Disciplinary Officers who are also Party Officers because of the limited terms for which they are appointed. There appear to be difficulties in conducting handovers, which either do not happen at all or are not conducted sufficiently well – this is due

to gaps between appointments and the fact that, sometimes, entire Boards/ Groups/ Committees can change at the same time. This can lead to a limited supply of institutional knowledge, skills and experience. The ideal is that this historical knowhow is passed on, but the practical possibility of this happening as required is influenced by a large range of factors that create uncertainty in this process.

This means that the approach of Disciplinary Officers can vary and could lead to inconsistency. Almost everyone I interviewed agreed that Disciplinary Officers should not be allowed to conduct investigatory/disciplinary matters until they had 'qualified' via an initial training course. They felt that training would enable Disciplinary Officers to:

- a) be consistent in approach
- b) share best practice
- c) feel confident in what they were doing
- d) be able to identify and fill skills and knowledge gaps and
- e) be validated in their roles

Within a voluntary organisation, ensuring that Disciplinary Officers receive regular training may present resource difficulties, however I think that this requirement is fundamental – it has been recognised as essential by almost every witness. Some of the witnesses themselves would make excellent trainers, by virtue of their historical roles as Disciplinary Officers and their passion for ensuring that the Party's processes reflect best practice.

**f) Convey the Party's stance and approach to sexual impropriety to every member in a more effective way**

*One of the witnesses has stated that the Party must, "...reach out to survivors and make the position clear that we are listening to all allegations and to put the discourse previously out there into coherent practice. This means not just improving our stance in the media, but clarifying that position again to each local party and member of the Liberal Democrats."*

It appears that there have been difficulties in communicating how The Party handles cases like these and why they have taken the approach that they have done. I also gain the impression that members do not feel heard over this issue and feel that they have to force The Party to react, even though The Party may have been about to act anyway. The timing and circumstances of progress on this matter has seemed to reinforce, in members' minds, that their discontent has brought change, when this has not, in most circumstances, been the case.

Examples of ways in which the Party could better communicate with members on this topic could include:

- Holding Q&A or workshop sessions on the subject at national or regional Conferences so that there is open and informed discussion outside of emergency situations.
- Making more use of infographics and modern media, such as videos to communicate The Party's position. Although there is lots of material available to explain the current policies and procedures and these have been presented in as attractive a way as possible, the people who seem to have accessed these are mainly Disciplinary Officers. In an age where people are used to processing information in small chunks and at speed, provision of what can be bulky sets of documents may not actually achieve real communication.
- Ensuring that every new member is informed of the Party's policy upon recruitment, as part of their 'Welcome to The Party' pack/meeting.

#### **6.Add a specific rule to the Members' Code of Conduct prohibiting the misuse of social media in a way that may have the effect of bringing The Party into disrepute**

This would warn members about potentially defamatory comments in social media or via other forums, whilst balancing the right to free speech and their duty to comply with the members' Code of Conduct.

## **7. Demystify the role of 'HQ' in the disciplinary process by explaining this from the outset of a complaint**

Some witnesses stated that they "...*would never come to HQ...*" or do "...*not believe in HQ...*" When challenged, their perception was that all of those involved in the investigatory/disciplinary process were "...*from HQ...*", were paid by the Party and were therefore not to be trusted.

This even applied to my role, which is voluntary and independent. This view was triggered simply by the fact that the communications for this investigation were conducted via a 'libdems' email address. A large part of this mistrust seems to be linked to a high-profile case involving allegations of sexual impropriety that witnesses felt was handled badly.

## **8. Appoint designated and trained Pastoral/Welfare Officers at Conference**

The Complainant witnesses who were interviewed alerted me to the fact that Conference is a time when people can be off guard, spirits can run high and, with a number of social events involving alcohol, there is a high risk of sexual impropriety taking place. They pointed me to a number of incidents that have allegedly taken place, ranging from Complainants being inappropriately touched on a single occasion by way of a 'misjudged greeting', to alleged rape following the spiking of a drink.

One witness stated that some of the Stewards themselves are vulnerable adults, so may not be in a position to assist with Complainants seeking help. As the Pastoral Care Officer cannot be available for every attendee of every Conference, it would help potential Complainants to have access to someone who can provide support and advice or, in some cases, protection – the ability simply to intervene and warn someone who is making unwelcome advances.

One witness stated that they jointly rented a flat for Conference with a fellow member who sexually assaulted them during the early part of their stay. The witness felt they had no choice but to stay in the flat and protect themselves as best they could for the duration of Conference. The reason that they did so was because they felt they

had nowhere else to go. The witness explained that, had they had access to someone at Conference who could have assisted them with finding alternative accommodation, they would have accepted that help. As it was, they did not feel that there was anyone whom they could approach in relation to this.

This might seem like an unwise decision on the part of the Complainant, however, it seems that, at the time of the incident, they were quite young, fairly new to the Party, did not know many people at Conference and had been too traumatised by the experience to make rational decisions.

I have considered the proposal by one witness of an 'Ask Angela' scheme. This is an innovative safety campaign originally launched by Lincolnshire County Council and which is being rolled out in other areas. It allows people who feel vulnerable in pubs or bars to discreetly signal for help. The scheme allows people who could be feeling threatened or unsafe on a date to get help by approaching the bar and "Asking for Angela." The staff can then immediately respond to the safety signal. People can be taken aside or to a safe location so they can speak in confidence about what help they may need. Staff could then call someone a taxi, contact their friends or family or ask the individual causing the distress to leave the venue.

The difficulties with establishing a scheme like this at Conference are as follows:

- The required publicity at Conference about the scheme would mean that it might not be discreet enough to be effective
- It would be difficult for the Conference Team to train and brief external staff members at the multi-location venues at Conference

The other option of having trained Pastoral/Welfare Officers could work if resourced effectively. As described by one contributor to this investigation: *"They could be on call outside of office hours via a dedicated mobile number...A log of issues could also be securely kept to aid with the establishing of patterns and repeat behaviour as referenced elsewhere in this report. To have such a team would require finding suitable volunteers,*

*training and establishing clear guidelines as the right course of action to take given individual circumstances."*

### **9. Include guidance on accessing pastoral care at Conference in Conference publications**

One of the suggestions put forward includes the use of a dedicated mobile phone number publicised to Conference attendees, accompanied by a sensitively worded guide. Safeguarding posters could be put up on the backs of toilet doors or other appropriate places, as is common practice in colleges and universities.

10. Ensure that each Regional Party has an Officer with specific responsibility for and training in pastoral care/welfare

### **11. Arrange safeguarding training for those holding key roles within Young Liberals due to the specific sensitivities and risks surrounding young people**

### **12. Appoint an Advocate for the Complainant (this could be the Welfare/Pastoral Care Officer already working with the Complainant) to share the Complainant's version of events with the relevant individuals or organisations**

13. Appoint an Advocate for the Respondent (this could be the Welfare/Pastoral Care Officer already working with the Respondent) to share the Respondent's version of events with the relevant individuals or organisations

### **14. Establish a formal support system for Respondents**

The 2013 Morrissey Report focussed mainly on providing support for Complainants in order to redress a perceived imbalance of treatment. However, during my investigation, it became apparent that there was a need for guaranteed support for the Respondent. Opinions vary on how this could apply in practice. People in this position may only wish to speak to someone they know and this could, therefore be someone '*...outside of the system...*' as one witness described it.

At present, the Pastoral Care Officer is available to support the Respondent, but she cannot do so if she is in a position of conflict, for example, where she is already supporting the Complainant. Due to the role of the Pastoral Care Officer, it is likely that she will, most of the time, be supporting the Complainant or a Party Officer who is supporting the Complainant. The Pastoral Care Officer could, in those circumstances, signpost the Respondent to other sources of support.

There is the risk, with the current system, that the Respondent could 'fall through the gaps' and it is crucial that, in the same way that the Party offers support to Complainants, it must do so equally for the Respondent.

One way of doing this could be by ensuring, as far as is possible, that the Respondent is put into contact with someone from the Party with appropriate training and experience and who they are comfortable to seek advice from. Due to the nature of the help they may need, this could be someone from their Local Party, a Welfare Officer, or someone from another part of the Party.

The Respondent may want to deal with someone who knows them well or may prefer to engage with someone whom they have never met. The feedback from witnesses in this regard was that support needs to be offered, but that it has to be on an individual basis, depending on the preferences of the Respondent.

The caution I would sound with this is that someone has to be accountable for arranging the support and ensuring that it continues – preferably a Disciplinary Officer involved in the investigatory/disciplinary process.

**15. Publish a clear policy on the current practice in relation to the anonymity of Complainants and Respondents**

**16. Ensure that The Party's policy on anonymity (including in relation to police referrals) is made known to the Complainant and the Respondent as soon as a complaint is made or notified**

**17. Publish a clear policy on the current practice in relation to police referrals**

**18.Ensure that The Party's policy on police referrals is made known to the Complainant and the Respondent as soon as a complaint is made or notified**

**19.Continue to consider suspension on a case-by-case basis via a Panel**

Regardless of whether the Party sets up specialist team for dealing with cases of serious sexual impropriety, it is still important that the decision to suspend is considered on an ongoing basis when a matter is under investigation and that the decision is made by more than one person.

Policy witnesses with experience in sexual impropriety cases are of the view that suspension cannot be automatic or decided based upon inflexible guidelines. Each case is unique.

Factors that decision makers might take into account include whether the Respondent is at risk of harming others, whether any of those involved in the case are high-profile, whether the allegations involve a current incident or a historic one, what type of sexual impropriety is alleged, whether there is evidence of malice or collusion on the part of the Complainant and so on. The system also needs to have the capacity to fast track a suspension review in cases where a decision is urgent.

**20.Consider the option of suspending the Respondent in relation to specific activities or locations, for example, attending Conference**

**21.Draft flexible guidelines on the exercise of the power of suspension, to be incorporated in the guidance for Disciplinary Officers**

**22.Establish a team which specialises in the handling of sexual impropriety complaints, drawn from the wider pool of Disciplinary Officers and other relevant professionals and reflecting the diversity of members**

Feedback from witnesses regarding the future of the role of Disciplinary Officers is that they believe that there should be a pool that is regularly recruited into, including members with relevant skills, knowledge and experience and representative of the diversity of society.

As regards the general pool of Disciplinary Officers (I will deal later with the concept of a specialist team to deal with sexual impropriety cases), the following concerns have been expressed, which may inform the creation of the pool:

- a) Current insufficient numbers of Disciplinary Officers to deal with the number of complaints – this is more due to the fact that Disciplinary Officers are volunteers and have limits on their time than it is that there are large numbers of complaints.
- b) A lack of diversity of Disciplinary Officers from minority groups, for example, LGBT+, BAME members and so on.
- c) A desire by those interviewed who are currently involved in the investigatory/disciplinary process to continue to be able to contribute their skills, knowledge and experience in this area by being included in the pool. This appears to reflect the commitment of their colleagues who are also involved in the process.
- d) Commitment to the concept that complaints should be dealt with at the 'lowest appropriate level.'

Turning now to cases of sexual impropriety, some witnesses have proposed that, within the wider pool, there could be people who have specific skills and experience of sexual impropriety cases to be available to work, as a team, on cases of serious sexual impropriety.

Views from witnesses differ as to the requirement for a specific team for serious sexual impropriety cases. One witness has pointed out that The Party is a voluntary organisation and the disciplinary process is designed to manage Party discipline, rather than being a means of achieving justice.

However, in cases involving sexual impropriety, The Party has a duty to protect its members and needs to address this with a level of professionalism that might not be required in dealing with other types of case.

Not only are the sensitivities surrounding sexual impropriety cases very different from other cases, but the scope for harm to be caused within The Party, given its wide geographical base, its large national and international membership, its voluntary nature (meaning less control over the behaviour of its members), its public profile and other factors, means that the risks to be managed are quite significant.

The Party therefore needs a higher level of input to manage cases of this nature than, say, an employer organisation, in which a Complainant can change job or be protected from having to have a working relationship with the Respondent or the Respondent can be dismissed. These solutions do not apply to an organisation like The Party and much more 'internal management' of keeping members safe is required.

The arguments in favour of a specialist team are centred around best practice within organisations like The Party's and the requirement that appropriate measures are put in place to ensure that The Party complies with its duty of care. Parallels that might be drawn with smaller, more geographically confined private sector organisations do not work in the case of The Party and the measures that have to be put in place must fit with The Party's 'organisational personality' and resources, the latter of which, I acknowledge, can be limited.

Issues that have been expressed in relation to a specialist team are as follows:

- a. There is a need for specialists in the safeguarding field to be able to input into serious sexual impropriety cases, including lawyers, social workers, counsellors, HR professionals and others to provide a balance of approach.

One of the issues raised a number of times was in relation to ensuring that a Complainant had access to someone with the skills and knowledge to explain the police referral process to them and to support them through it. The person would have to be able to explore the risks and benefits of going to the police, as well as be able to assess, on a continual basis, the mental health risks to the Complainant of pursuing this route.

Persuading the Complainant to go to the police when they might not want to takes a significant amount of skill, but it is preferable to have a co-operative Complainant going to the police than simply reporting an allegation to the police against the Complainant's will, which is likely to lead to no further action. The specialist would also have the skills to explain, in a way that acknowledges the unique trauma a Complainant of serious sexual impropriety may have experienced, that their complaint could assist the police, even if the allegation were not proved to a criminal burden of proof. This is because the police keep 'soft records' which could protect further victims. There is a very delicate balance to be had in having a conversation of this nature, as Complainants do not wish to have the added burden of future Complainants added to their shoulders and this conversation can only be conducted with someone who has the skills and experience to handle it wisely.

A Complainant may already be feeling powerless because of the alleged experience they have been through. To take decisions away from them and/or failing to provide them with proper support in making decisions that they are reluctant to make could have a negative impact upon their mental health. One safeguarding witness stated that they felt that it is only a matter of time before the Party has to deal with a Complainant self-harming as a result of decisions made "*...against their will...*", such as revealing their name to the Respondent or to the police or reporting a crime to the police. Such decisions, when handled well, can have a positive outcome. However, when handled poorly, this can, not only put the Complainant at risk, but could put other Complainants off from coming forward.

- b. There can be a heavy responsibility placed upon single individuals at various stages of the investigation/disciplinary process in cases involving serious sexual impropriety. One Welfare Officer witness who had to report a case to the police, but did not wish to, states that they had little experience of how to do this and what to expect. The weight of their decision was a heavy burden for that person, who felt and still feels that it was an impossible position that they found themselves in and one which they would not wish to be in again. With serious sexual impropriety cases, particularly because they involve an

alleged crime, a multi-disciplinary, team-based approach may be more appropriate in relation to key decisions, such as suspension of the Respondent, revealing the name of the Complainant to the Respondent and reporting the matter to the police.

Such situations need to be handled with the appropriate support for all parties involved, to avoid a cycle of reports to the police that lead nowhere, because the Complainant will not co-operate, followed by a subsequent lack of co-operation in relation to an internal investigation from the Complainant, because they feel that their autonomy has been violated at the first stage.

- c. The possibility that, failing to make adequate risk assessments on a rolling basis of the risks to the mental health of the Complainant and the Respondent, could lead to a breach of the duty of care of the Party. In cases of serious sexual impropriety, it is desirable that those risks are assessed by those with professional qualifications and experience in safeguarding and that decisions at this level are not made solely by one person. The risks assessed should include a review of how each process is likely to impact upon the Complainant and the Respondent.
- d. LGBT+ members are more likely to be sexually abused but are extremely reluctant to come forward. This is partly because they fear that they may not be understood by Disciplinary Officers, particularly if there is no one dealing with their case who is LGBT+ or who is openly supportive or familiar with specific issues that this particular group of individuals may have to face. One witness who raised this stated that there had been a Disciplinary Officer who had been diligent in researching LGBT+ issues in one case and that the current Pastoral Care Officer is extremely capable in this area. Their concern was in relation to the conduct of the investigation and disciplinary process itself and the need to create a pathway for complaints from LGBT+ individuals, followed by sympathetic handling of their complaint by people who understand their specific needs. This could be the same pathway as will exist for others, but, it would need to be particularly inclusive to ensure that LGBT+ members feel that a 'safe space' exists for them. The witness

was keen to underline that other minority groups might have similar requirements.

Regardless of the intended setup of Disciplinary Officers in the future, it is important that the arrangements take account of the factors above, which were flagged by a number of witnesses.

### **23. Ensure that relevant members of the sexual impropriety complaints handling team has access to a Supervisor**

The need for supervision applies particularly to those who work alone in the process at present, for example, Investigators, Welfare Officers and so on. Due to the nature of the work that they do and the strict rules of confidentiality that apply, it can be difficult if someone in a 'sole' role is criticised, particularly if this happens publicly, via social media. There is also the low-level harassment that can ensue when a report is not in someone's favour.

In today's culture of information sharing and the ease with which cyber-bullying can take place, Disciplinary Officers may be constrained from responding or defending themselves from a social media attack because they are respecting the confidentiality of the very person who is attacking them in some instances. In some cases, an Investigator can experience direct or indirect pressure for a report to come to specific conclusions.

It is important, therefore, for the sake of their mental health and physical wellbeing to provide them with a sense of security by ensuring that Disciplinary Officers have someone to support them and guide them through what can be a very isolating process. It also ensures that Investigators are subject to some level of oversight which would satisfy the concerns expressed by one witness, who felt that Investigators and other Disciplinary Officers are not subject to sufficient scrutiny.

Although this may not be the case, this perception is reinforced by the fact that formal processes are not particularly detailed and practice can be inconsistent.

**24.Ensure that serious sexual impropriety cases are handled by a team and not by individuals at any key stage of the process**

**25.Review the paid staffing resource supporting investigations and disciplinary processes**

Those who work with paid staff dealing with the welfare and compliance aspects of the investigation and disciplinary processes view their input as highly competent and extremely valuable. So much so, that there is concern about what happens when those staff are unavailable or, as may happen in the future, when their workload becomes too great – this could create a bottleneck of complaints not being dealt with. There appears to be a need for a back up to the current paid staff, with the possibility of a new structure. This would also allow for the separation of investigations and disciplinaries from subsequent Appeals, all of which, the current compliance team deal with. The potential for conflict may exist where the compliance team has to provide support for or advise upon the same case from complaint to Appeal and it is desirable for those functions to be separated.

The paid staffing resource could include a person or persons with legal, compliance, welfare, safeguarding and possibly, training experience and could incorporate the current appointed staff plus one or more additional members of staff, subject to an assessment of the best way to allocate tasks and responsibilities within the current team. One of the roles could include responsibility for quality control, quality assurance, overall co-ordination and facilitation of complaints at a strategic level.

**26.Invest in a case management system for logging and administering complaints**

See Appendix 6

**27.Draft a standard public announcement of the Party's position on current investigations and keep to it**

This avoids the position whereby the Party is forced to react to public comment under pressure, thereby introducing a variance of approach,

influenced by media or social media commentary. From the point of view of one witness, who was contacted by the media in relation to allegations of sexual impropriety, it was a response by the Party via social media that sparked media interest in their case. This might not have happened had official Party comment been limited to a standard statement that could be referred to whenever specific comments are made on social media. See Appendix 5.

## **28. Create a central log of complaints (this could be addressed by investing in a proper case management system)**

I have had examples given to me of complaints that witnesses feel have been 'brushed under the carpet' or complaints that have been dealt with 'informally'. It is good practice within an organisation to keep a central log of complaints, in order that, even with 'low-level' complaints, if a pattern of behaviour emerges or escalates (and this could be on the part of the Complainant or the Respondent), it becomes apparent.

A positive example was given to me by one witness who logged an anonymous complaint about a person. They did not want to identify themselves or take the matter further. Later on, social services contacted the Party Officer to whom the Complainant had complained and stated that they had concerns about the person complained about. The Party's log of what was a seemingly low-level complaint assisted in action being taken by external agencies and this later encouraged other Complainants to come forward to give evidence about what turned out to be a pattern of inappropriate behaviour. The original Complainant heard about this and relayed it to me as part of my investigation.

There are many other reasons for keeping a central log of complaints, for example, the creation of a proper audit trail, due diligence, statistical analysis and so on. I acknowledge the concerns of some that centralisation in itself is not a good thing, however, when it comes to potentially criminal matters and matters involving safeguarding, keeping a proper log in order to potentially assist external agencies and to ensure that the Party is engaging in the correct monitoring and scrutiny of complaints is an overriding consideration.

**29. Set time limits on each stage of an investigation/disciplinary process, with the flexibility to extend or reduce these time limits where appropriate and communicate the timescales to the Complainant and Respondent**

There seems to be varying practice in terms of the length of investigation. Although there are procedures in place regarding this issue, it seems that they are applied inconsistently and are not always communicated to the Complainant or Respondent. Timescales are perceived by Complainants and their supporters as randomly extended or shortened, with little satisfactory explanation as to why. Presumably, Respondents feel the same way.

The impact of lengthy timescales for an investigation is illustrated in a somewhat surprising example that was put to me. A witness described how Complainants who have been harassed or assaulted at Conference will not bring a complaint forward, on the basis that the complaint is unlikely to have been dealt with by the time of the next Conference. The reasoning behind this seems to be linked to the concern in the Complainant's mind that, if a case is currently under investigation, the Complainant might encounter the Respondent at Conference and might then be open to a revenge attack or other form of reprisal. If the Respondent is not being investigated, the Complainant somehow feels safer from the Respondent's potential animosity. Whilst this reasoning may seem unusual, it appears to be a genuine factor that is taken into account by Complainants.

Where lengthy investigations take place, this could, according to one witness, lead to *"...matters bubbling under the surface and people taking matters into their own hands.."* Timescales that are reasonable for all parties - including the Disciplinary Officers who are volunteers - are therefore crucial to this process. It is equally crucial that those timescales are shared with the Complainant and Respondent at the outset.

**30. In controversial or very serious cases, appoint an independent person to oversee the investigation/disciplinary process as soon as the case is identified as requiring this**

The perceived lack of independence and the idea that “...*the Party is allowing self-appointed members to police allegations...*” as one witness put it, has caused some damage to the Party’s internal reputation when it comes to Complainants coming forward. I accept that an independent appointee could be costly and that a non-Party member might not understand the workings of the Party, but I would balance this by what one witness asked me, “*What value do we place on a person?*” This would include both the Complainant and the Respondent.

In the long term, I think that taking the step of appointing an independent person to oversee the most controversial cases will not only improve the Party’s reputation, but will demonstrate its absolute commitment to living out the policies that it advocates for in the political sphere. As one witness stated, “*This is an opportunity for the Party to be a trailblazer in this area.*”

**31. Conduct a simple skills audit to identify Party members who might be willing to lend their expertise to either a Steering Group on Sexual Impropriety Complaints or to become a part of the specialist team working on serious sexual impropriety complaints**

## J: CONCLUSION

I am grateful to the many people who either took part in or provided support for this investigation. Thanks to their input, I was able to probe into The Party's current investigatory and disciplinary processes to sufficient depth to be able to come up with recommendations that reflect, both the good practices that The Party has in place and the areas in which these can be strengthened.

In conducting this investigation, I have encountered a commitment across the full range of witnesses to addressing issues that have been raised by Party members, albeit, there may be some disagreement as how those issues can be resolved and how quickly this needs to happen.

I hope that, through Lord MacDonald's review - which this Report will feed into - followed by subsequent debate at Conference, there will be restored confidence in The Party's ability to deal with sexual impropriety cases in a way that is sensitive, compliant and fair to all involved in the process. Based on what I have heard from the witnesses in this investigation, it seems that this goal is something that everyone agrees on.

*Isabelle Parasram*

6<sup>th</sup> December, 2017



## **APPENDIX 1 – REMIT OF INVESTIGATION APPROVED BY FEDERAL BOARD**

### **Authored by The Party President:**

#### **Sexual Harassment & Rape allegations –**

- 1) Following the concerns reported by some Complainants in a current sexual harassment and rape case, Vince Cable and I are concerned about possible flaws in the complaints procedures. Vince has said on television repeatedly over the last week that we must have a zero-tolerance attitude towards harassment of all kinds, and I agree with him.
- 2) I have today replied to April Preston's open letter (which appeared on Medium) and which is Appendix 1, and he and I agree that we must investigate the Complainant's concerns about their case, and also to address whether there are flaws in our procedures, either specifically in this case or more generally.
- 3) Rachel Palma Randle has made contact with some of the women who have written open letters and are part of the complaints to ask if further support can be offered.
- 4) Given that Lord Ken Macdonald is nearing completion on his review of our disciplinary procedures, we think we should ask the investigator to address the four main specific concerns set out by the women, so that these can be fed back into Ken's review. These are:-
  - a) Lack of support from The Party for Complainants;
  - b) Anonymity of the Complainants throughout the process;
  - c) The Party's referral of cases to the Police where a serious criminal offence is complained about
  - d) The suspension of members accused of harassment.
- 5) An investigator may wish to look at some other recent cases as well, particularly those where referrals to the police or children's services have been made for safeguarding reasons. The investigator will report back to the Federal Board and also to Ken Macdonald, preferably by the beginning of December.
- 6) Following advice from a number of people, I have asked Isabelle Parasram, our candidate in Walsall, to investigate. Whilst you may know her as a PPC, Isabelle has many years experience as a barrister, including safeguarding issues, operating at a national level. She isn't on any Federal or English party committees, so is independent of party decisions. She has just been elected Vice Chair of Lib Dem Women, taking up the role on 1 January 2018.

- 7) **DECISION:** The Federal Board are asked to agree to the appointment of Isabelle Parasram as investigator, with the above categories forming her remit.

**Macdonald Review -**

- 8) You will remember that we agreed in June to defer receiving the Macdonald Report until early 2018 with constitutional changes happening in September, not least because Spring conference had no time for debating such matters. In light of events I have asked Ken to bring it forward to the final meeting of the Board on 18 December, and Andrew Wiseman has helpfully agreed that space will be found on the Agenda for Spring Conference.
- 9) **DECISION:** The Federal Board are asked to agree that the final Macdonald Review proposals be brought to its meeting on 18 December, in time to be submitted as a motion to Federal Spring Conference.

## APPENDIX 2 – CONDUCT OF INTERVIEWS

### Ground rules for interview/permissions sought by Investigator, Isabelle Parasram:

- a) Permission requested for tape recording.
- b) Witness requested to co-operate, but is doing so voluntarily, can withdraw from or pause the interview at any time.
- c) Explained my role.
- d) How do we know each other? Established whether there is or could be a conflict of interest and that, if one became apparent, we could pause the interview.
- e) Checked whether client needed something to drink, was in a private place and so on.
- f) Confidentiality with exceptions, for example, a risk of harm to themselves or others, money laundering offence being disclosed or my notes having to be disclosed on a statutory/judicial basis.
- g) Although the witness should note that my investigation is not a criminal one and I have no powers of criminal investigation, the witness should respond appropriately bearing in mind that my notes might be used for the purposes of a civil or criminal case later on.
- h) Request to witness to keep the discussion confidential.
- i) Notes being taken.
- j) Safe storage of notes.
- k) Witness not to be too concerned about getting dates exactly right or stating things in the wrong order.
- l) Witness to ask questions or add anything they wish to at any point.
- m) Request for relevant paperwork to be forwarded later on.
- n) Send statement afterwards to highlight or add anything they wish to.

### Questions:

During the interview, I focused on seeking the witness' views on the following, using their own statements to ask additional questions:

1. support in the investigations process for Complainants;

2. anonymity for Complainants;
3. reporting serious crimes to the police;
4. suspension of members following serious allegations and
5. how The Party can support members appropriately who are accused of serious allegations.

APPENDIX 3 – WITNESS LIST  
FOR DISCLOSURE TO THE PARTY PRESIDENT ONLY

\*\*\* Submitted separately \*\*\*

## APPENDIX 4 – BACKGROUND READING

1. Open letter from April Preston (Complainant Representative) to Sal Brinton (Party President) and Vince Cable (Party Leader) dated 7<sup>th</sup> November, 2017, accessible here:  
[https://medium.com/@AprilPreston\\_/an-open-letter-to-vince-cable-sal-brinton-b8bf3638d074](https://medium.com/@AprilPreston_/an-open-letter-to-vince-cable-sal-brinton-b8bf3638d074)
2. Response to open letter from April Preston to Sal Brinton and Vince Cable via email dated 9<sup>th</sup> November, 2017
3. Welsh Party Complaints Protocol, dated 17<sup>th</sup> November, 2013
4. Progress Report on the Processes and Culture of the Liberal Democrats, December 2014 by Helena Morrissey accessible here:  
<https://d3n8a8pro7vhmx.cloudfront.net/libdems/pages/7117/attachments/original/1418903950/M-report-part-2.pdf?1418903950>
5. Processes And Culture Within The Liberal Democrats And Recommendations For Change: An Independent Inquiry by Helena Morrissey, 12th June 2013
6. Various social media posts relating to the conduct of an investigation submitted by a witness
7. Timeline for the progress of an investigation submitted by a witness
8. Email chain in relation to procedural advice on an investigation submitted by a witness
9. Constitution of the Young Liberals (as amended at April 2016)  
<http://www.liberalyouth.org/constitution>
10. Membership Rules (as revised by English Council, 2015)
11. Liberal Democrats Members' Code of Conduct, dated 25<sup>th</sup> February, 2014
12. Email chains x 2 in relation to the conduct of an investigation submitted by a witness
13. Email chain in relation to ethical advice on an investigation submitted by a witness
14. Screenshots of social media discussion between witnesses regarding a complaint
15. Written submissions/statements to investigation by Investigator witnesses x 2 in relation to the five key areas
16. Liberal Democrats Disciplinary Procedure, November, updated as at 2017
17. The Scottish Party Constitution – as amended in February 2016, available here:

[https://d3n8a8pro7vhmx.cloudfront.net/libdems/pages/376/attachments/original/1457972301/LD\\_Scottish\\_Constitution.pdf?1457972301](https://d3n8a8pro7vhmx.cloudfront.net/libdems/pages/376/attachments/original/1457972301/LD_Scottish_Constitution.pdf?1457972301)

18. The Welsh Party Constitution – as amended in February 2016, available here:  
[https://d3n8a8pro7vhmx.cloudfront.net/libdems/pages/376/attachments/original/1447697542/LD\\_Welsh\\_Constitution.pdf?1447697542](https://d3n8a8pro7vhmx.cloudfront.net/libdems/pages/376/attachments/original/1447697542/LD_Welsh_Constitution.pdf?1447697542)
19. A Guide to Making a Complaint, February, 2014, accessible here:  
[https://d3n8a8pro7vhmx.cloudfront.net/libdems/pages/4086/attachments/original/1392561786/A\\_Guide\\_to\\_Making\\_a\\_Complaint\\_About\\_a\\_Member\\_or\\_an\\_Employee.pdf?1392561786](https://d3n8a8pro7vhmx.cloudfront.net/libdems/pages/4086/attachments/original/1392561786/A_Guide_to_Making_a_Complaint_About_a_Member_or_an_Employee.pdf?1392561786)
20. 'My rights & responsibilities' document, accessible here:  
[https://www.libdems.org.uk/complaints\\_member\\_rights\\_responsibilities](https://www.libdems.org.uk/complaints_member_rights_responsibilities)
21. 'Make a complaint' submission form available here:  
[https://www.libdems.org.uk/making\\_a\\_complaint](https://www.libdems.org.uk/making_a_complaint)
22. Disciplinary processes review survey

## **APPENDIX 5 – SAMPLE PUBLIC STATEMENT ON INVESTIGATIONS**

On XXX DATE, the Liberal Democrat Party received complaints from Party Members that XXXX.

The complaint has been raised with the XXXX Committee in accordance with Article XXX of the XXXXX and the Respondent and Complainant(s) have been notified.

The Liberal Democrat Party is [STATEMENT ABOUT WHAT THE PARTY STANDS FOR AND ITS POLICY ON THE ISSUE COMPLAINED ABOUT]

The Liberal Democrat Party will ensure a thorough, impartial and transparent investigation for all complaints. We will not comment further on this matter until that process has been concluded.

## APPENDIX 6 – COMPLAINTS PROTOCOL

The following should be included in a Complaints Protocol designed to explain some of the key issues surrounding the investigatory/disciplinary process. It is intended to benefit the Complainant and the Respondent as well as others who are not involved at an 'official' level. It is not an exhaustive list, but is based upon the evidence of witnesses to this investigation who have highlighted key matters that they felt were important to include. The Complaints Protocol should be given to the Complainant and the Respondent and explained at the earliest stage of proceedings.

1. The purpose of disciplinary proceedings is to protect the Party and its members. It is not designed to administer moral reprimand.
2. The role and responsibility of the Pastoral Care Officer - it seems that far more is expected of this role than is realistic or required.
3. The roles and responsibilities of the various Disciplinary Officers – it seems that far more is expected of these roles than is realistic or required.
4. What types of complaint will be forwarded to the police and whether these will be forwarded with or without the Complainant's permission.
5. Whether the Complainant's, the Respondent's and any witnesses' names will be provided to the police (if the complaint is to be forwarded).
6. Whether the Respondent will be told the Complainant's and any witnesses' names.
7. Whether the Complainant's, the Respondent's and any witnesses' names will be provided to others involved in the investigatory/disciplinary process or externally and, if so, who those people might be.
8. That, outside of the investigation/disciplinary process, the names of those involved will not be shared publicly, aside from confirmation of a finding against the Respondent in publicly known cases.
9. Whether, in the case of an 'off the record' complaint, it will be raised with others, for example, with the PCO, who may not have been the first point of contact for the complaint.
10. That, if a complaint is made, even if it is made informally or outside of the usual protocols, it will be identified and pursued as a complaint, in accordance with the Party's duty of care.

11. The requirement of the Complainant and the Respondent not to contact each other, whether directly or indirectly.
12. An explanation of the powers of The Party to intervene in this regard – at present, the Party only has the power to note any unwanted contact in any eventual internal report. However, it could pursue any unwanted contact as a separate disciplinary matter if the Members' Code of Conduct were to be changed to encompass this as a disciplinary offence. Depending on the nature of the unwanted contact - for example, if it were to include stalking or harassment - the person who has received unwanted contact might have to pursue this via the civil or criminal Courts. It should be noted that the Party does not have the power to prevent unwanted contact, but can take reasonable and proportionate measures to try to prevent unwanted contact from happening.
13. A warning that the misuse of social media could lead to action being taken against any party misusing social media in a way that may have the effect of bringing The Party into disrepute, particularly through using confidential information from the investigatory/disciplinary process.
14. That the Respondent is presumed innocent until proven guilty.
15. That suspension is not a form of punishment - it is a neutral act of protection for both the Complainant and the Respondent.
16. An explanation of the usual steps in an investigation/disciplinary process and applicable timescales.
17. The range of sanctions open to the Party to impose on the Respondent if the case against the Respondent is proved.
18. Options for Appeal for both the Complainant and the Respondent.

## APPENDIX 7 – CASE MANAGEMENT SYSTEM

Case management systems are not particularly expensive – depending on the one chosen, they can cost the equivalent monthly charge of a small business accounting package. In my view they are essential to the proper handling of complaints. Some witnesses viewed this as a key requirement for proper complaints handling, as, in practice, these systems are invaluable, particularly where there is a team-based approach to an investigation/ disciplinary process. A case management system would address the following issues that witness have raised as matters of concern, along with many others:

- a. Maintaining the confidentiality of the Complainant and the Respondent
- b. Managing Subject Access Request (SAR) data protection requests more effectively
- c. Complying with data protection regulations<sup>9</sup>
- d. Smooth management of complaints
- e. Tracking dates and deadlines
- f. Eradicating or minimising overlap of tasks/duties of Disciplinary Officers
- g. Keeping a proper audit trail<sup>10</sup>
- h. Complying with best practice safeguarding procedures
- i. Making it possible for a team to work on an investigation/ disciplinary process together, rather than as individuals managing separate processes via separate systems
- j. Protection of Disciplinary Officers
- k. Adequate encryption of data
- l. Promoting confidence in the administrative system
- m. Reassurance for those involved that their details cannot be accessed without the proper controls in place
- n. Limiting written communications to in-system email addresses to protect the integrity of communications

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<sup>9</sup> For example, ensuring that investigation and disciplinary processes are not mixed in with Disciplinary Officers' personal communication channels and data storage

<sup>10</sup> Central storage of written correspondence in and out, phone calls and so on

## APPENDIX 8 – GUIDANCE MANUAL

Witnesses across the board wanted a guidance manual for investigations/ disciplinary processes. One witness, who stated that there is a need for more detailed written guidance, also felt that there had to be a limit to how much process should be dictated and I think that this reflects the feeling that a balance should be struck. In the words of one witness, *“The manual should be a helpful resource, not a means through which to limit common sense.”*

The topics to be covered – all based upon feedback from witnesses – include the following, which is not an exhaustive list:

- a. A flowchart of actions and processes
- b. Witness expenses
- c. Compliance with The General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679)
- d. Whether Disciplinary Officers can use their own laptops/email accounts<sup>i</sup>
- e. Protocols regarding the tape recording of interviews/hearings<sup>ii</sup>
- f. Storage and destruction of information<sup>iii</sup>
- g. Protection of information<sup>iv</sup>
- h. The burden of proof and what the ‘balance of probabilities’ means in practice
- i. Templates for correspondence<sup>v</sup>
- j. When to inform the Respondent that an investigation is taking place<sup>vi</sup>
- k. Who can access case paperwork
- l. What has to be marked ‘Confidential’
- m. Working with other agencies who might have different Codes of Conduct to adhere to
- n. Keeping Local Parties up to date with what is happening without breaching confidentiality<sup>vii</sup>
- o. Who is allowed to know what and at what stage<sup>viii</sup>
- p. Expected levels of communication<sup>ix</sup>
- q. Redacting – what it is and when it is used
- r. Job descriptions for Disciplinary Officers
- s. Identifying when a matter or issue has to be escalated
- t. How to question a witness appropriately, particularly one who has allegedly been sexually assaulted<sup>x</sup>

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<sup>i</sup> In view of the impending implementation of the GDPR, the use of personal laptops and email accounts may have to be phased out.

<sup>ii</sup> Those being interviewed need to be clear about whether they have to be tape recorded, what the purpose of the tape recording is, what will happen to it in the long term and other, related questions.

<sup>iii</sup> Disciplinary Officers need to be clear about how data should be stored or destroyed in compliance with the GDPR, including data such as notebooks, paperwork, USB sticks, electronic documents and so on.

<sup>iv</sup> Disciplinary Officers need to know how to protect data, for example, password-protecting electronic documents, shredding confidential documents and anonymising documents, as far as is possible.

<sup>v</sup> For example, standard 'invitation to interview' letters, 'thank you for attending interview' letters, 'invitation to hearing' letters and so on.

<sup>vi</sup> With some regulatory bodies, there is an initial 'sift' through a complaint, during which time, the Respondent is not informed of an allegation. The Respondent is only told of it once the decision has been taken for a formal investigation to take place.

<sup>vii</sup> Witnesses have asked how they should communicate with the Local Party during an investigation/disciplinary process. For example, if a member has been accused of sexual impropriety, how does the Local Party handle their absence during suspension, what can they say about it, what can the member be permitted to engage in if they have not been suspended and so on? Should one named person representing the Local Party communicate with the Disciplinary Officers or should it be the Chair? One witness felt that it was too onerous on the Chair to have to deal with this.

<sup>viii</sup> For example, the membership department is notified if a member is suspended, as is the Local Party Chair, but this information may not be readily available to the parties involved. For example, one Complainant found it very difficult to find out whether the Respondent had been suspended or not and could not, therefore, make decisions about her (the Complainant's) involvement with her Local Party.

<sup>ix</sup> It appears that a lack of communication or poor communication can sometimes lead to misunderstandings that then escalate out of all proportion. For example, in one case, a Complainant was told by one Disciplinary Officer that the Respondent had been suspended. She (the Complainant) then discovered, through another Officer, that the Respondent had not been suspended and this caused a lot of distress on the part of the Complainant.

Communication systems need to be set up whereby the correct person is dealing with the correct issue and there is some separation between Disciplinary Officers and Complainants, Referrers, Witnesses and the Respondent. If there is no professional distance, the lines can become blurred in the perception of the Complainant, the Respondent and witnesses. Expectations can be created that the Disciplinary Officer did not intend to exist.

Disciplinary Officers also need to know how much and how often to communicate. In some instances, Complainants stated that they were left waiting for months before

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hearing about what would happen to their complaint and only had a response once they chased it or they flagged it on social media. They felt that the wait had a worse impact upon them bringing the complaint in the first place, which was difficult enough for most. One witness described it as a 'cloud' hanging over them which would not have been there if they had never made a complaint at all. In their view, the matter could have been easy to deal with, had it been dealt with promptly.

<sup>x</sup> One Complainant felt that they were asked inappropriate questions that they perceived as victim blaming. The Investigator may have been trying to probe the Complainant's evidence and this may have come across negatively, but training in this area for this type of case is important in order to ensure that it is not only robust, but it is sensitive.