

Scottish Parliament

Standards, Procedures and Public Appointments Committee:

Consultation on the Draft Proposal to amend the Scottish Parliamentary Standards Commissioner Act 2002

January 2020.

Introduction

The Parliament's Standards, Procedures and Public Appointments Committee would like views on its intention to introduce a Committee Bill which will alter the remit of the Commissioner for Ethical Standards in Public Life in Scotland (the Commissioner) to allow for the investigation of complaints into historic misconduct involving sexual harassment. The Committee proposes to introduce primary legislation which will strengthen current procedures involved in investigation of complaints which exist to establish whether misconduct occurred. Allow for parliamentary sanctions as appropriate and identify lessons which Parliament might learn.

This includes:

- removing an admissibility requirement that a complaint be made within one year; and
- to allow the Commissioner to investigate complaints made by Members' own staff in relation to sexual harassment which took place in the past.

The Scottish Women's Convention (SWC)

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission provides the views of women and reflects their opinions and experiences in a number of key areas relevant to women's equality.

Proposed Removal of the Admissibility Requirement

The SWC welcomes the Committee's proposal to amend the Scottish Parliament Standards Commissioner Act 2002 in order to provide a response to historical complaints and to bring forth primary legislation concerning sexual harassment of a staff member by their employing MSP.

Harassment is fundamentally a factor within the overarching narrative of gender inequality and power imbalance within our society that women experience daily. The Committee and wider Parliament should look upon any procedure to extend protection and hold accountability of sexual harassment as a matter of urgency.

As the democratic leader within Scotland, the Parliament must take note that whilst many of the work practices within its boundaries are relatively unique, the significant findings of sexual harassment uncovered within the past few years is conducive of a wider prevalence of sexual harassment within all workplaces. Analysis is needed of the power imbalance, the deficiency of equal representation at a parliamentary level and women's inequality in general in order to gauge the responses and the lack of such thereof to sexual harassment within the Parliament at all levels.

For the past number of years, the SWC has undertaken ongoing consultation with women on the topic of sexual harassment throughout Scotland. The removal of the admissibility requirement that a complaint be made within one year was seen as overwhelmingly positive. The current practice of applying a one year time limit is detrimental to women for a number of reasons mainly:

- The psychological toll that historic sexual harassment has on victims on an ongoing basis.
- That where sexual harassment has a historical edge but staff are still employed, this may provide an impediment to promotion and may increase the likelihood of victimisation whilst giving staff little recourse to reporting mechanisms.
- The current time limit is conducive to an unfriendly and toxic atmosphere within the work environment and may stop someone coming forward without regard to how long it may take a victim to feel ready.
- Removal of the requirement may act as a catalyst for others to come forward. This may encourage others to come forward where behaviour by a perpetrator has occurred to multiple individuals.
- For many former employees, sexual harassment can be a main reason for pursuing a different career or form of employment thus claims may not be raised until after employment has ceased.

Other Issues for Consideration:

In removing the admissibility requirement, it must be ensured that any complaints of sexual harassment are investigated fully and not seen as being of a lesser impact simply because it is a "historical" as opposed to a "live" claim. This should include careful consideration of all evidence, employment of a zero tolerance approach and ensuring that belief always lies with the victim.

- It must be of the utmost importance that the investigation of such historic allegations have a clear approach to ensure all evidence is analysed, particularly in cases where there may be a lack of documentation such as emails or messages which can be used.
- A strict policy ensuring provision of a zero tolerance approach to bias where the complaint made is historic, ensuring that investigations take into account just why a victim did not bring a complaint at the time of the events taking place.
- The incorporation of frameworks that not only highlight preventative agendas as well as strategies to ensure the appropriate handling of historic complaints. This should include analysis of the failings of previous mechanisms as well as entailing significant data collection of all reporting of sexual harassment. In order to establish a successful analysis of what is going on within the Parliament as a workplace, this should occur regardless of the time period that has elapsed.

Allowing the Commissioner to Investigate Complaints made by Members' own staff in relation to Sexual Harassment which took place in the past.

The need for significant protocols which allows the investigation of complaints independently coupled with strict confidentiality procedures and outlining policies that provide safe guards is of the utmost importance.

Whilst we are aware that there are certain unique situations that govern the employment of staff by MSP's which cause them to be employed directly, this can often present a barbed experience to the sexual harassment process.

The lack of anonymity within reporting processes continues to act as one of the most significant impediments for women who have experienced sexual harassment. Oftentimes, as soon as even the smallest details are given out then the identity of the victim is ultimately exposed. This is particularly challenging for those who bring a complaint against a direct employer and all mechanisms should counteract this significant challenge as a matter of the highest importance.

Other Issues for Consideration:

There are a significant number of problems within the current process which can act as a severe impediment towards reporting. This includes issues which may be unique to the Parliament as a workplace such as the entrenchment of political loyalty and the risk of victimisation which the current reporting process may entail.

It is therefore important to allow the Commissioner to investigate complaints about MSP's conduct independently towards both current and former members of staff. Other issues that should be considered include:

- Robust training around the definitions of sexual harassment, the causes and consequences of such and potential implications for victims.
- A clearly outlined definition of trade union rights for all staff including equality matters.
- Robust training for all staff and MSP's on equalities and harassment issues.

- Clear and concise guidelines in relation to what every political party should encapsulate within their own sexual harassment policies concerning historical complaints which should be reviewed and updated regularly.

Conclusion

The SWC welcomes and fully supports the introduction of the proposed legislative changes encapsulated here. Sexual harassment is fundamentally a form of Violence against Women and Girls which are not isolated acts but rather act as a continuum of gendered inequality and a violation of dignity, respect and human rights. Every employer should have robust procedures in place that employees are aware of and have confidence in. The Scottish Parliament as the democratic foundation within Scotland should not be immune to this.

The fundamental requirement of any legislation brought forward to act as a preventative or accountable measure of sexual harassment is to make it stop and to make potential perpetrators think again. It should be noted that complaints do not exist in a vacuum and that both historic and current “live” complaints are tantamount to a detrimental effect on women’s employment, health, and equality in general.

For further information, please contact

The Scottish Women's Convention

Email – info@scottishwomensconvention.org

Telephone – 0141 339 4797

www.scottishwomensconvention.org

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission paper provides the views of women and reflects their opinions and experiences in a number of key areas relevant to women's equality.

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