



## **PARLIAMENTARY BRIEFING: SEXUAL HARASSMENT AND INAPPROPRIATE CONDUCT IN THE SCOTTISH PARLIAMENT**

On June 14, 2018, the Scottish Parliament will debate the report by the Standards, Procedures and Public Appointments Committee on the findings of its inquiry into sexual harassment and inappropriate conduct.

### **1. WHAT DID THE COMMITTEE FIND?**

The Committee found that existing policies and structures may not be contributing to a safe work environment in the Scottish Parliament. It makes several recommendations, including a central policy on sexual harassment, ongoing monitoring and reporting, and mandatory training. The Committee also recommended further consideration of an independent investigatory body, a sanction for MSPs akin to dismissal, and a process for suspending MSPs.

The report serves as an introduction to the challenges that lay before parliamentarians in reforming defunct sexual harassment policies and procedures. However, with further investigation and careful consideration, these challenges can be overcome to implement policies and procedures that contribute to a safe workplace environment. It is our hope that this will be the first debate in a series of debates on reforms to prevent, appropriately investigate, and sanction sexual harassment and inappropriate conduct.

**It should be noted that Engender is advising the internal working group within the Parliament that is taking forward a work programme on tackling sexual harassment. This briefing does not comment on, or share information or analysis of, that work.**

### **2. THE PROBLEM: SEXUAL HARASSMENT IN SCOTLAND**

Sexual harassment is, above all, a manifestation of power relations. The cultural shift needed in the Scottish Parliament to militate against the sexism that creates the conducive context for sexual harassment first requires an acknowledgment and understanding that women are much more likely to be victims of sexual harassment precisely because of these unequal power dynamics. The social causes of violence against women and girls are rooted in male entitlement, privilege and the exercise of male control and power.

In January, a survey of MSPs, their staff and Parliament staff revealed that a fifth of respondents experienced sexual harassment or sexist behaviour. When that figure was broken down by gender, 30 percent of women and six percent of men reported experiencing these behaviours in some form.

### **3. ANALYSIS OF THE COMMITTEE'S REPORT**

#### **1. *A central policy***

In our evidence to the Committee, we noted that current sexual harassment policies and procedures were found across several documents. As it stands, there is no single reference point to guide an individual on how to make a complaint of sexual harassment or inappropriate conduct. Instead, the avenues to redress are found across several documents. As such, we support the Committee recommendation for a central policy. Policies that are unclear, rely on inaccessible language or unfriendly formats, or are difficult to locate run the risk that staff will interpret the organisation as unwilling to apply the policy. It is therefore vital that sexual harassment policies be clear, coherent and simple to read as well as find.

#### **2. *Privacy considerations***

Complaints involving sexual harassment are often allied by the fear of job loss, retribution, or the potential embarrassment that could result from the informal or formal disclosure of the behaviour. At present, the existing reporting mechanism in the Scottish Parliament requires a person to disclose their experience of sexual harassment to several individuals. This absence of safeguards to a person's personal information and/or circumstance is a barrier to justice.

We agree with the Committee that a complainant should be able to decide whether to proceed with their complaint on an informed basis, but believe there is scope to further investigate how a sexual harassment reporting and investigation mechanism could respect and protect personal information. In addition to the questions around privacy that we included in our evidence to Committee, it is imperative to consider each stage of the process to determine how actors can best protect personal information and minimise harm to those involved in the complaint.

The reporting and investigation system should build confidence in the administration of justice by protecting personal information and being seen to protect personal information. Such an approach would contribute to allaying fears of job loss, retribution or personal embarrassment, which can result from reporting an incident of sexual harassment and/or inappropriate behaviour under current procedures.

#### **3. *Sanctions for sexual harassment and/or inappropriate conduct***

As set out by the Committee at the beginning of the report, MSPs have a duty of care toward their staff, which "includes dealing appropriately with unacceptable behaviour". Whilst we agree with this assessment, we believe that there is a gap in the existing system, namely dealing appropriately with unacceptable behaviour by those in positions of power. For too long, the consequences for women disclosing acts of sexual harassment and/or inappropriate conduct have been far greater than the consequences for those who perpetrated the acts. As long as a system exists that abides with a victim suffering the pains of disclosure rather than the perpetrator, sexual harassment and inappropriate conduct will continue to be rife.

Whilst we support a debate on the considerations provided by the Committee in its report, we believe the debate should be part of a wider review process that considers the options

open to parliaments for the investigation and sanction of sexual harassment. This would consider the sanctions which could be applied to MSPs and by which authority, including measures which could be taken when an investigation is ongoing (e.g., suspension). We note the challenges that the Committee rightly outlines with respect to developing a sanctions regime, including the constitutional and democratic questions raised. It is our view that advice from experts could usefully be brought to bear on the constitutional elements raised in the report as well as evidence of approaches in foreign jurisdictions to incidents of sexual harassment and inappropriate conduct, including their efficacy and, where effective, how they might be adapted to fit the Scottish context.

#### **4. *Culture change***

We are encouraged by the progress towards developing a programme of education, as well as the ongoing dialogue to reform existing policies and practices. There is a shared understanding that the most robust mechanisms for gathering, investigating, and acting on complaints will not, on their own, eradicate sexual harassment. This is because sexual harassment, like other forms of violence against women, is both a cause and consequence of women's inequality. To banish sexual harassment from the Scottish Parliament, any programme of capacity building will need to include anti-sexist practice as well as building a shared understanding of how sexual harassment reporting, investigation, and sanction should operate. The Scottish Parliament, alongside political parties and other actors that shape parliamentary culture, will function best as a democratic institution when those who work within its campus are treated with respect, and when their careers are not constrained by a sexist workplace culture.

#### **FOR FURTHER INFORMATION**

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#### **ABOUT ENGENDER**

Engender has a vision for a Scotland in which women and men have equal opportunities in life, equal access to resources and power, and are equally safe and secure from harm. We are a feminist organisation that has worked in Scotland for 20 years to advance equality between women and men.