Standards, Procedures and Public Appointments Committee

Inquiry into sexual harassment and inappropriate conduct at the Scottish Parliament

Written submission from the STUC

The STUC is Scotland’s trade union centre. Its purpose is to co-ordinate, develop and articulate the views and policies of the trade union movement in Scotland; reflecting the aspirations of trade unionists as workers and citizens.

The STUC represents over 560,000 working people and their families throughout Scotland. It speaks for trade union members in and out of work, in the community and in the workplace. Our affiliated organisations have interests in all sectors of the economy and our representative structures are constructed to take account of the specific views of women members, young members, Black members, LGBT+ members, and members with a disability, as well as retired and unemployed workers.

Do you have any comments on how effective and clear the current arrangements are in the Scottish Parliament for reporting sexual harassment?

It is relatively unclear what the reporting mechanisms were for reporting sexual harassment prior to the hotline being set up in December 2016 for people working in the Parliament to report any issues of sexual harassment, other than via the normal grievance process. It is clear that a complaint about an MSP should be made to the Commissioner for Ethical Standards in Public Life in Scotland. However, for many victims of sexual assault this may seem an inaccessible option which has the potential of exposing their identity. We understand that, as well as the helpline, those who work in the Parliament are also encouraged that they can report any incidents of sexual harassment to the police, political parties, and other parliamentary officials via the grievance procedure. Although trade unions are mentioned in relation to disciplinary and grievance hearings, the guide for MSP staff does not explicitly state that there is a right to join a union or that advice and support can be sought from trade union representatives. The STUC believes that parliament should clearly outline this.

Trade Union research on sexual harassment

In a similar vein to PCS union’s submission to this inquiry, we draw the TUC research, “Still just a bit of banter?” to the committee’s attention. The report demonstrates that sexual harassment affects more than half of all women. 1/3 of women have been subject to unwelcome jokes of a sexual nature, more than ¼ of women have been subject to comments of a sexual nature about their body or clothes. Nearly ¼ of women have experienced unwanted touching. One fifth of women have experienced unwanted sexual advances.
The research points out that it is important to note that the harassment does not have to be directed at the person complaining about it. For example, sexual comments directed at others may create a degrading, intimidating or hostile working environment for workers even if they are not intended as the object of the comments.

The case may be worse for some groups of women, from the TUC research, 68% of women aged 18 – 24 had experienced some form of sexual harassment compared to an average of 53% amongst women of all ages. There may also be greater impacts on BME (Black and Minority Ethnic) and LGBT (Lesbian, Gay, Bisexual and Transgender) women.

The impact of harassment can be wide scale and life-changing, from affecting the ability of women to progress within their career or to contribute fully within the workplace, to women no longer feeling safe in their working environment.

The TUC report makes a very important point on how power can contribute to an enabling culture within organisations. “As is the case in other types of violence against women, sexual harassment is inextricably linked with power. Whether the perpetrator is abusing a position of power by harassing someone they see as less powerful, or whether the perpetrator feels powerless and is using sexual harassment as a means to disempower the target of their harassment and thus increase their own power and status in the workplace.” This is a particularly important point in relation to the Scottish Parliament.

Within the Parliament, the culture of close working between politicians, staff and MSP aides adds sensitivities for those who want to call out inappropriate behaviour. The fear of impacting on the individual’s career or reputation is likely to be more of a factor in this kind of environment.

The STUC agrees with PCS union that the long hours culture, with evening and weekend work, may add to isolation for staff who are working to the demands of their immediate superiors or politicians. They may become encouraged to be remote from the usual policies and procedures of the employer as a result, so when inappropriate behaviour takes place they do not feel confident in reporting it.

**What features of reporting and investigation frameworks can act as barriers to reporting and a lack of action on undesirable behaviours? Please provide examples.**

Any framework which does not put the complainer at the centre of the process, or which does not make clear that the start point of any investigation is that the complainer's experience is believed, will act as a barrier to complainers coming forward.

Furthermore, any framework which keeps numbers of complaints, and outcomes, entirely secret may act as a deterrent as complainers are not sure of the landscape in terms of how many people are coming forward or if it is ‘worth’ making a complaint as they may feel that nothing will be done. The framework must be transparent and
decision makers must be accountable to wider workplace structures; whilst maintaining confidentiality.

Third party reporting should be used as often complainers will feel that their confidentiality may be breached if they are reporting to parliamentary staff, regardless of whether they are assured that the process will be confidential. Furthermore, third party reporting allows complainers to speak to someone out with the employer who has a duty of care to act. This is important as, although sexual harassment is a crime, often people will not want the employer to take the matter forward to the police.

The TUC research found that one in five said they were too embarrassed to report sexual harassment. Fifteen per cent feared a negative impact on their career if they reported it. Twelve per cent of women said they did not know how to report the unwanted behaviour and just under one in ten women said they were unaware that they could report it. These issues must be addressed through the reporting framework.

Precarious, insecure, and agency work also has an impact on whether people feel comfortable to report. It is well recognised through international agencies that a person who does not have security of employment may feel that by reporting issues of sexual harassment they are in a vulnerable position in terms of their employment continuing.

What are the key principles and essential elements of a reporting, investigation and sanctions framework for use by the Scottish Parliament to deal with sexual harassment and inappropriate conduct that would inspire confidence in those engaging with the process and the public in general?

Any reporting, investigation or sanctions framework dealing with sexual harassment should follow the ‘zero tolerance’ approach which has been advocated by international organisations, including all UN agencies, since 2002. Furthermore, any framework must have in mind that sexual harassment is a crime and can be reported to the police, as well as parliamentary officials or officials of political parties. Complainers should be made aware of their rights in terms of time-limits for claims in law, and employers themselves, in this case potentially MSPs, must be aware that in employment tribunal proceedings they and the harasser can be subject to claims.

Each complaint of sexual harassment must start from the point of view that the complainer is believed. Experiencing harassment is difficult and people may have many, often conflicting feelings about the events that have led to them feeling humiliated, offended or degraded or about the fact that they are in an environment that violates their dignity. People can feel this way if another person intended to make this happen or not; what matters is how the complainer feels.

In addition to general Discrimination, Bullying and Harassment policies there should be a separate sexual harassment policy which highlights an understanding of systemic and gendered power dynamics in the workplace, and which includes additional points of contact that are available to those who have experiences sexual
harassment, despite whether they make a complaint or not. All those who are available to listen, advise and guide a complainer through the process should be identified including trade union representatives who will be trained appropriately.

Any new procedure should be informed by insights and advice drawn from specialist agencies, focus groups with staff, and an independent review of policies and procedures should take place. In developing the framework, staff should be asked for feedback on the process in a confidential and supported way.

How can positive changes to workplace culture be achieved that lessen the prevalence of sexual harassment? What examples of best practice are there from which the Scottish Parliament could learn?

A programme of sexual harassment awareness should be developed which includes equality and diversity training, safeguarding training, and sessions on unconscious bias and ‘lad culture’1 prior to the introduction of sexual harassment reporting and monitoring frameworks. These training sessions should be in place for new as well as existing staff and should be updated and included in general staff CPD. Clear definitions of ‘sexual harassment’, ‘sexual assault’, ‘sex discrimination’ and terms such as ‘misogyny’ can help to label and pinpoint attitudes and behaviour. Peer to peer training with external agencies serves to ensure people understand these terms and the impact which attitudes and behaviour can have on those who are on the receiving end, as well as on men who are negatively impacted by “toxic masculinity” in society and feel pressured into participating in the ‘lad culture’.

However, it is the STUC’s position that online training, or top-down training, serves only as a tick-box exercise for employers and will not break down people’s perceptions of language and behaviour. Instead, training must be interactive and include everyone in the workplace – from the highest paid to the lowest paid member of staff – completing the training together or in mixed groups. This would break down people’s perceptions, making them more confident at identifying behaviours and therefore challenging them. The STUC understands that Rape Crisis Glasgow has worked with the University of Strathclyde on coherent training and reporting of gender based violence which has been lauded.

Any campaign also needs to keep intersectionality at its forefront. Understanding how low level behaviour, including ‘banter’, jokes and objectification, lead to a culture where harassment is normalised, will contribute to changing people’s perceptions of their own behaviour and how this feeds into the sexual violence pyramid.

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1 NUS report “That’s what she said”, 2012, defines ‘lad culture’ as a group or ‘pack’ mentality residing in activities such as sport and heavy alcohol consumption, and ‘banter’ which was often sexist, misogynist and homophobic.
Close the Gap will shortly be providing an Equally Safe employer accreditation programme. Equally Safe is Scotland’s violence against women strategy which recognises that violence against women is a cause and consequence of gender inequality, and that tackling women’s labour market inequality will reduce violence against women, which includes sexual harassment. The Scottish Parliament should ensure that it is leading the way in terms of this accreditation. The employer could also consider establishing collective safe spaces for staff, facilitated by trade unions who have some expertise in equality networks.

The STUC are keen to ensure that the Scottish Parliament is regarded as having a best practice model on sexual harassment in terms of training, reporting, investigation, and sanctions which includes trade unions in the development of this framework.

STUC
26 JANUARY 2018

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1 http://www.11thprincipleconsent.org/consent-propaganda/rape-culture-pyramid/