Standards, Procedures and Public Appointments Committee

Inquiry into sexual harassment and inappropriate conduct at the Scottish Parliament

Written submission from Zero Tolerance

1. About Zero Tolerance
Zero Tolerance is a Scottish charity working to end men’s violence against women (VAW) by promoting gender equality and challenging the attitudes which normalise violence and abuse.

In 2016 Zero Tolerance undertook research to gain further insight from a Scottish perspective on what VAW in the workplace looks like. Our primary focus was gauging the level of support available for those disclosing violence to their employer; and what employers were doing to combat the sexist attitudes which underlie and permit VAW. We received over 600 responses from women (80%), men (19%) and non-binary (1%) individuals from across the public sector (83%) the private sector (6%) and third sector (9%). Men were asked to take part in our research if they had witnessed violence or sexism in the workplace; or were in management positions where they would be required to support employees who had experienced either.

2. Sexual Harassment at Work
Sexual harassment in the workplace is both a cause and a consequence of women’s inequality and cannot be separated from other forms of gender discrimination and inequality. Women are significantly more likely to be the victims of sexual harassment. The root cause of this is a culture of sexism that can permeate every aspect of Scottish life. Researchers from the Trades Union Congress (TUC) and the Everyday Sexism Project found that 52% of women in the UK had experienced unwanted behaviour at work including groping, sexual advances and inappropriate jokes. For women and girls aged 16-24, the proportion reporting experiences of sexual harassment rose to 63%. Of all employees and workers surveyed by the TUC, four out of five women experiencing sexual harassment did not report the unwanted behaviour to their employer due to fear that it would negatively impact their work relationships. The impact of VAW on our workplaces shouldn’t be underestimated. When women are unable to enjoy the most basic rights and freedoms at work, this sends a powerful message about how women are valued. It can damage their mental health, and hamper their long-term prospects by disrupting their career.

Zero Tolerance’s study shows that women’s experiences of work are undermined by unacceptable levels of VAW in Scottish workplaces. The most disturbing finding is that 10% of women reported violence occurring during their work and 74% reported experiencing sexual harassment. Over a third of these women were unsure whether their employer would support them should they disclose this harassment. Instances of

1 https://www.tuc.org.uk/research-analysis/reports/still-just-bit-banter
2 Ibid
harassment were often accompanied by workplace cultures which passively undermined women’s reports of being harassed or undermined because of their gender. Such cultures enable employers to downplay their responsibility to protect and respect employees.

We welcome the decision by the Standards, Procedures and Public Appointments Committee of the Scottish Parliament to hold an inquiry into sexual harassment and inappropriate conduct at the Scottish Parliament. The Scottish Parliament has a unique chance to implement comprehensive procedures and policies that set a standard of zero tolerance for sexual harassment and can be emulated in workplaces across Scotland.

3. Committee Questions

3.1. 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?

We have broken down our response by process stage:

3.1.1. Reporting

Clarity
Policies must be clear, and steps must be taken to ensure that staff understand the reporting process and the support they will receive should they disclose violence.

Safety and Dignity
All reporting procedures and policies must be centered on protecting and respecting the individual who has reported violence. This would represent a significant shift away from current standard processes that place onus on victims to prove their statements. Responsibility for investigation must lie with the employer, not the reporting party.

Individuals who report sexual harassment must be assured that doing so will not result in any negative consequences for them. This must be reflected in policy which states that there will be significant sanctions for anyone guilty of further victimisation of a person who has reported sexual harassment.

In large scale workplaces, like the Scottish Parliament, we highly recommend that a female Sexual Misconduct Officer is appointed to be the reporting focal point for cases of sexual harassment. In smaller scale workplaces we recommend that a colleague within the team, ideally a woman, is trained and empowered to take on this role. Too frequently, the individuals identified as responsible for receiving reports of sexual harassment will be senior men, either in managerial roles or HR roles. As sexual harassment in the workplace is rooted in women’s inequality, having a man as the only person available to report an issue of sexual harassment to can therefore act as a major barrier to women reporting instances of sexual harassment. Staff identified as reporting focal points must be comprehensively trained on how to handle such reports. This training must include:

- equalities legislation
Confidentiality
All processes related to reporting must center the dignity and privacy of the person reporting sexual harassment. Reports must be kept entirely confidential until the person reporting a complaint is happy for information to be passed. This emphasis on confidentiality should be clearly outlined in all related policies. Whilst we advocate for a zero-tolerance approach to sexual misconduct we do not think this should trump the needs of the complainant who may wish to prioritise confidentiality. No information should be disclosed without the complainant’s approval or without the complainants being fully informed on how that information will be used.

There may be situations when a complainant does not wish to proceed with a complaint procedure due to exhaustion, fear or stress. To ensure action is taken in these cases, we recommend a system that allows reports to be logged without any disclosure of the identity of the reporting person. If a second complaint is then made identifying the same individual as a perpetrator of sexual misconduct, then both cases will reopen. The original complainant will be updated on the situation and asked if they want to reopen/proceed with the complaint.

3.1.2. Investigation
Full and Thorough Investigation
All cases of sexual harassment reported to the Scottish Parliament must be taken seriously and investigated fully.

Communication
The Scottish Parliament should communicate with the person who had lodged a complaint throughout the entirety of the investigation. The person who has reported sexual harassment should be fully informed of the stages involved in the investigation procedure and should be updated if the timescale or order of steps changes. Respect for the individual reporting harassment must be a key priority throughout the full process.

Timing
A timescale for completion of the investigation process should be clearly laid out. Investigations must balance the requirement to be thorough and fair with the requirement to be expedient. A drawn-out investigation will send a message that the case is not being prioritised.

Training
Investigation should be handled by specially trained staff. Training must include:
- equalities legislation
- confidentiality/safeguarding
- organisation specific policy
- appropriate support to victims
• unconscious bias and how to tackle it
• sanctions that may be applied to a perpetrator

3.1.3. Sanctions
Clarity
It is key that the Scottish Parliament makes sanctions clear and visible. Sanctions should be enacted quickly and accompanied with clear communication to all parties involved.

Proportionate
Sanctions must be expedient and must acknowledge the significant harm inflicted through sexual harassment. Respondents to Zero Tolerance’s 2016 survey were clear that sexual misconduct must be met with sanctions and felt that perpetrator-specific responses might include their immediate removal from the workplace to ensure victims’ safety. Other sanctions could include permanent notes on HR records and a requirement that an individual disclose their history of sexual harassment to all future employers. We also recommend that anyone found guilty of sexual harassment be required to attend a comprehensive training on sexual misconduct and, if appropriate, gender discrimination before they are allowed to return to work.

Preventative
The Scottish Parliament must commit to immediately sanctioning a staff member who has committed sexual harassment this will help send out a message that sexual harassment and misconduct will not be tolerated within the Scottish Parliament. The emphasis of any sanctions take by the Scottish Parliament should be on preventing recurrence of sexual harassment and ensuring the victim is able to continue to work safely and with dignity. Further steps should be taken to assess and challenge the culture that allowed such harassment to occur.

3.1.4. Broader framework of support
Acknowledgement that Sexual Harassment is Founded in Gender Inequality
Sexual harassment is a manifestation of unequal power relations. For significant and long-lasting change within the Scottish Parliament, there must be a firm acknowledgement that women are much more likely to be the victims of sexual harassment and that this is because of the gender-based discrimination faced by women. To end sexual harassment within the Scottish Parliament, sexism must be challenged and dismantled. It should also be acknowledged that the broader sexism faced by women in their daily lives can act as a barrier to reporting as women develop personal coping mechanisms for dealing with VAW that are unlikely to involve seeking formal solutions.

Adequate Support for Victims of Sexual Harassment
Support for the victim should be prioritised as much as sanctions for the perpetrator. When asked what support mechanisms employees might need should they experience violence (including paid time off, flexible working, reduced/negotiable

workload and enhanced security measures to deter perpetrators) 80% of respondents to Zero Tolerance’s survey said, ‘all the above’.\(^5\) The impact of sexual harassment on mental health should not be underestimated and any framework responding to it should include adequate provisions for supporting victims after the investigation procedure has been finalised. This should include options for counselling or group support.

**Intersectional**

Women’s vulnerability to violence can be compounded by a variety of other social inequalities. The TUC has observed that experiences of sexual harassment can intersect with racism.\(^6\) Evidence from the Scottish Transgender Alliance shows that workplaces are one of the most common arenas for trans people to experience harassment.\(^7\) Furthermore, disabled women are twice as likely to experience abuse as their non-disabled counterparts.\(^8\) Such complexity needs well-planned responses to VAW in every workplace. Therefore, any reporting, investigation and sanctions framework used by the Scottish Parliament must be founded on intersectional data on violence and sexism in the public sector.

**Data Collection**

Ongoing data should also be collected on incidents of sexual harassment to allow the Scottish Parliament to assess the effectiveness of updated policies and procedures.

**Supported with Training and Awareness Raising**

All frameworks designed to combat sexual harassment in the Scottish Parliament should be complimented by a suite of training for all staff to equip them to understand and respond to new sexual harassment policies and procedures. It should also be supported through a clear zero-tolerance code of conduct for behaviour that ensures a workplace culture that counteracts gender discrimination, gender-based bullying or “banter” of a sexist nature.

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

**Lack of clarity related to relevant policies and the reporting process itself**

Zero Tolerance’s survey results showed that 73% of respondents were either unsure or unaware of a VAW policy in their workplace. Many of those who responded saying that they did have a policy tended to comment that whilst there were violence-related policies at work, they did not specifically mention gender-based violence.\(^9\) In responding to violence, policies often suggested treating everyone with ‘dignity and respect’ rather than specifying real-world measures like enhanced leave or tailored


\(^7\) [http://www.gov.scot/Publications/2013/04/7520/4](http://www.gov.scot/Publications/2013/04/7520/4)

\(^8\) [http://www.refuge.org.uk/get-help-now/support-for-women/help-for-disabled-women/](http://www.refuge.org.uk/get-help-now/support-for-women/help-for-disabled-women/)

support to remain at work, which should form the bulk of an employer response to VAW.

**No clear or trusted focal point for reporting**
Our survey found that confidence about reporting to line managers was lower than expected. Whilst 59% of respondents were certain that their employer would provide some form of support, 21% felt unsure that their employer would be supportive and 19% said their employer would not support them. Such uncertainty may contribute to other findings in previous studies which report that over one third of respondents felt that reporting incidents of sexual harassment would adversely affect their career. We found a basis for this fear in our data where victims of workplace VAW had been removed by their employer:

“I was made redundant because I didn’t respond to the CEO’s advances – 6 months later he was sacked for sexually harassing another woman”

**Lack of training for those with responsibility**
In our survey, out of managers who identified themselves as bearing responsibility to engage with staff reporting VAW (45% of respondents) only one quarter reported confidence in doing so. 17% stated that they either did not know or were unsure what steps to take upon the disclosure of abuse. Of those that were confident, responses tended to focus on the need to refer to other agencies rather than displaying knowledge of mechanisms which could sanction the actions of perpetrators or prevent the violence from occurring.

**Misogynistic Culture**
This is perhaps the biggest barrier to reporting and lack of action as it normalises, excuses and perpetuates sexual harassment in the workplace. Sexual harassment at work cannot be separated from other forms of gender discrimination and inequality. Respondents noted how the weight of cultural assumptions about gender sometimes frustrated or trivialised their efforts to challenge sexual harassment - 37% identified experiences where they felt it was implied that their work wasn’t as good in some way because of their gender (‘gender-based teasing’ as defined during data collection). Other examples of so called ‘everyday sexism’ included 42% of respondents feeling that they were experiencing gender stereotypes in working patterns such as men and women being chosen for certain tasks in the workplace regardless of seniority, or that they were asked to do tasks that were stereotypically female.10 A respondent described the ways in which their experiences of harassment had become a part of their daily working life and a barrier to their career progression:

“I was repeatedly assumed as the assistant, secretary or minute taker rather than the lead. Although my senior male colleague would correct this when I was given coffee orders (without asking) and referred to as ‘honey’, ‘sweetheart’ and even patted on the ass, the same male colleague would then take credit for the business and [money] brought in by these meetings at all staff get-togethers.”

3.3. 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?

One of the ways to foster a healthy culture is to begin to dismantle the attitudes that allow violence to flourish. Supporting gender equality can influence the ‘violence supporting norms’ that dismiss or trivialise VAW. In workplace settings, such attitudes can take a variety of forms but typically include dismissive attitudes towards reports of violence and the toleration of cultures where women feel they are treated differently from their male counterparts. Dedicated work is required to not only provide a tailored package of assistance for women experiencing violence, but to also require employers to look to wider institutional mechanisms by which to raise awareness and promote attitudes conducive to gender equality. The Scottish Parliament must continue its ongoing work to assess leadership mechanisms for women-leadership that explicitly supports gender equality to build a supportive environment by working to remove gender stereotypes including the removal of unseen conscious bias.

Respondents to Zero Tolerance’s survey did not feel that enough action was taking place to reduce workplace sexism, specifically in areas where the Scottish Government and public sector have the most leverage, for example, health promotion and the setting of standards. 62% felt they couldn't describe any positive measures being taken to counteract sexism or promote gender equality in the workplace. For those who could (24% of respondents), descriptions sometimes lacked specificity; respondents indicated that there were codes of conduct and training on interpersonal respect but that these didn’t mention violence or gender. More robust examples included equality impact assessments and measures which included accountability for promoting gender equality, such as the Athena SWAN awards or training packages. Our results also indicated that training to build confidence for bystander intervention should be a feature of workplaces seeking to prevent VAW.

One striking finding of our research was that employers may be vastly underestimating the appetite that employees have for gender equality. When asked whether employers had responsibility for influencing culture, 77% of respondents agreed and a further 20% indicated that ‘employers should do more’. This suggests that if employers took the lead, employees would engage willingly. As one respondent said: “Employers are the pivotal starting point for influencing culture. If the employer does not take responsibility themselves, staff cannot be expected to do the same.”

Zero Tolerance has developed the PACT (Policy, Action, Communication, Training) programme for businesses in Scotland. This programme will help employers provide appropriate support to all staff, not only those experiencing harassment and violence but also to managers and colleagues who may be affected by the issue too. The Scottish Government is currently working with Close the Gap to develop a workplace accreditation process based on PACT. We recommend that this approach be adopted by the Scottish Parliament and are more than happy to share the full PACT toolkit with the Parliament.

12 Ibid
3.4. Do you have any comments on how effective and clear the current arrangements are in the Scottish Parliament for reporting sexual harassment? Do you have any suggestions for changes to improve the current rules and procedures?

The Scottish Parliament’s current policy is not collated in one place and this makes it hard to understand and could act as a barrier if staff do not know which policy or code of conduct applies to them. The Parliament’s policies should be streamlined, and the procedure related to reporting sexual harassment and the process that would follow such a report must be clearly defined.

Safeguarding and protection of the person who has reported violence must be included and clearly outlined within all policies. The absence of detailed focus on how complainant’s personal information will be kept confidential is potentially a significant barrier to reporting. Confidentiality and protection must be given much greater focus and prioritised throughout any related policy.

A single focal point should be identified and specified. In its current form, the Scottish Parliament’s framework could require complainants having to report their experience to multiple individuals or logging it through the online portal and not knowing whether they will hear back. Both options could act as barriers depending on the person who wishes to make a complaint. An option for online reporting that centers complete anonymity should be kept however we recommend that this be complemented by the option to speak to one, specified and trained individual.

The lack of specific and clear sanctions within the Scottish Parliament’s framework is potentially very demotivating for someone hoping to report an instance of violence. If they are not assured that their workplace experience will improve and that their safety will be prioritised it is not clear why they should put themselves in a potentially hazardous position by reporting such violence. How sanctions will be decided on and what they might constitute should be made explicitly clear. Additionally, the support offered to the person making the report and/or the victim should be made clear and should be a focus of any future framework.

Finally, the Scottish Parliament’s definition of sexual harassment must clearly understand harassment as a form of violence that is rooted within women’s inequality. In explicitly acknowledging this root cause of sexual harassment the Scottish Parliament will be sending out a clear message that will serve to challenge the societal norms that permit sexual harassment and VAW to occur.

The Scottish Parliament has a crucial opportunity to implement groundbreaking procedures and policies that set a standard of zero tolerance for sexual harassment and can be emulated in workplaces across Scotland.

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