



The Scottish Parliament  
Pàrlamaid na h-Alba

## COMMITTEE ON THE SCOTTISH GOVERNMENT HANDLING OF HARASSMENT COMPLAINTS

### AGENDA

**16th Meeting, 2020 (Session 5)**

**Tuesday 1 December 2020**

The Committee will meet at 10.15 am in the Robert Burns Room (CR1).

1. **Complaints Handling:** The Committee will take evidence from—

Judith Mackinnon, Head of People Advice;

and then from—

Gillian Russell, Director, Health Workforce, Scottish Government.

2. **Complaints Handling (not before 3.30pm)** The Committee will take evidence from—

Nicola Richards, Director of People;

and then from—

John Somers, Principal Private Secretary to the First Minister, Scottish Government.

3. **Review of Evidence (in private):** The Committee will review the evidence heard on the inquiry.

Clerk to the Committee on the Scottish Government Handling of Harassment  
Complaints  
Email: SGHHC@Parliament.Scot

The papers for this meeting are as follows—

**Agenda Item 1**

Paper from the Clerk

SGHHC/S5/20/16/1

PRIVATE PAPER

SGHHC/S5/20/16/2(P)

**Agenda Item 3**

PRIVATE PAPER (to follow)

SGHHC/S5/20/16/3(P)

**Committee on Scottish Government Handling of Harassment Complaints****16<sup>th</sup> Meeting, 2020 (Session 5), Tuesday 1 December 2020****Phase 2: Complaint Handling****Evidence session 9: 1 December 2020****Background**

1. This paper has been produced prior to the Committee on the Scottish Government Handling of Harassment Complaints' ninth evidence session. The Parliament has agreed under [Standing Orders Rule 12.3](#) that the Committee can hold part of its meeting in the afternoon whilst a meeting of the Parliament is in progress.

2. The evidence session will be conducted in two halves, one in the morning from 10:15 and the other in the afternoon from 15:30. The Committee will hear from four Scottish Government officials as follows:

*Morning session*

- Judith Mackinnon, Head of People Advice; followed by
- Gillian Russell, Director, Health Workforce.

*Afternoon session*

- Nicola Richards, Director of People; followed by
- John Somers, Principal Private Secretary to the First Minister.

3. The officials called to give evidence during the morning session had previously been invited to give evidence on 24 November. Following a [letter from the Deputy First Minister](#) on 19 November however, this session had to be delayed. The Convener's response to the Deputy First Minister's letter can be found [here](#).

4. Judith Mackinnon is Head of People Advice at the Scottish Government and previously gave evidence to the Committee on Thursday 27 October on the Judicial Review phase of the Committee's inquiry. The *Official Report* is available [here](#). Following this evidence session, Judith Mackinnon wrote to the Committee, this letter can be found [here](#).

5. Gillian Russell is currently Director, Health Workforce at the Scottish Government (appointed March 2020). Prior to this, she was Director for Safer Communities.

6. Nicola Richards is Director of People at the Scottish Government (appointed May 2016). Nicola Richards previously gave evidence to the Committee on 25 August on the Development of the Policy phase of the Committee's inquiry. The *Official Report* is available [here](#). Following this evidence session, Nicola Richards wrote to the Committee, this letter can be found [here](#).

7. John Somers is Principal Private Secretary to the First Minister.
8. The evidence sessions will focus on the complaints handling phase of the Committee's inquiry. The purpose of these sessions is to examine the process followed, not to revisit the criminal trial or consider the substance of the complaints originally made to the Scottish Government.
9. In line with the Committee's [written statement on the handling of information and evidence](#) all participants must comply with the court order made by the Lord Justice Clerk, Lady Dorrian, on 10 March 2020 preventing publication of the names and identity, and any information likely to disclose the identity, of the complainers in the criminal trial.
10. [The Committee's remit and approach to its inquiry](#) is available on the Committee's webpage.

### Complaints Handling

11. The Committee asked the Scottish Government to retain all documents which may be relevant to the inquiry in its [letter of 26 February 2019](#).
12. On 3 June 2020 the [Permanent Secretary provided an update](#) to the Committee on the timescales for providing documentation and written evidence, noting a delay in the complaints handling batch of evidence.
13. On 31 August 2020 the Deputy First Minister [wrote to the Committee](#) to update members on the forthcoming batch of evidence relating to complaints handling. This letter noted that a formal objection has been received by the Scottish Government on behalf of an individual which would cause a delay in the provision of these documents to the Committee.
14. On 26 October 2020 the Deputy First Minister [wrote again to the Committee](#) with an update on the progress the Scottish Government was making to provide the material relating to complaints handling.
15. Following this letter, the Convener [wrote to the Deputy First Minister](#) on 6 November 2020. This letter noted that, notwithstanding the legal issues related to the documentation, the Committee wished to receive from the Scottish Government as soon as possible, a timeline or written submission giving information on the process undertaken by the Scottish Government in investigating the complaints. The Deputy First Minister [responded to this letter](#) on 13 November 2020, noting that the Scottish Government will look to provide material as soon as possible.
16. On 12 November 2020, the [Convener wrote to the Deputy First Minister](#) informing him that the Committee was considering beginning hearing oral evidence on the complaints handling process in the absence of relevant documentation. This letter noted that, in the absence of this documentation, Scottish Government officials would need to spend more time in Committee covering matters in person that should have been covered by the Scottish Government's written statement and associated documentation. The letter also noted the Committee has evidence from the inquiry

phases on the development of the procedure and the judicial review and other sources of information it can draw upon to inform these sessions.

17. In a [letter to the Committee on 19 November 2020](#), the Deputy First Minister indicated that he could not agree to Judith Mackinnon and Gillian Russell appearing before the Committee on 24 November due to the risk of jigsaw identification caused by the fact that the Scottish Government had not finalised the timeline and statement for this phase of the inquiry. The Convener [responded to this letter](#) on 19 November 2020.

18. The Deputy First Minister subsequently [wrote to the Convener on 24 November 2020](#) updating the Committee on the timescales for the production of relevant material from the Scottish Government, noting that he was prepared to allow the witnesses to appear before the Committee with certain mitigations.

### Previous Evidence Sessions

19. The Committee agreed to conduct its inquiry in phases. It has previously taken evidence on the development of the handling of harassment complaints policy and on the Judicial Review as follows:

#### *Development of the handling of harassment complaints policy*

- The Permanent Secretary gave evidence on 18 August. The *Official Report* is available [here](#).

Following this evidence session, the Permanent Secretary submitted further written evidence, this letter can be found [here](#).

- Senior Scottish Government Officials James Hynd; Head of Cabinet, Parliament and Governance Division, and Nicola Richards; Director of People gave evidence on 25 August 2020. The *Official Report* is available [here](#).

Following this evidence session, James Hynd and Nicola Richards submitted further written evidence. The letter from James Hynd can be found [here](#) and Nicola Richard's letter can be found [here](#).

- Dave Penman, General Secretary, FDA; and Malcolm Clark, Convenor of the Council of Scottish Government Unions and PCS Scottish Government Group President gave evidence on Tuesday 1 September. The *Official Report* is available [here](#).

Following this evidence session, Dave Penman submitted further written evidence, this can be found [here](#).

- The Permanent Secretary was asked to give further evidence on policy development on 8 September 2020. The *Official Report* is available [here](#).

Following this evidence session, the Permanent Secretary submitted further written evidence, this can be found [here](#).

- Sir Peter Housden, former Permanent Secretary; and Barbara Allison, former Director of People at the Scottish Government, gave evidence on 15 September. The *Official Report* is available [here](#).

Following this evidence session, Barbara Allison sent two letters to the Committee which can be found [here](#) and [here](#).

The Committee [wrote to Sir Peter](#) to follow up on his evidence session. This letter and [Sir Peter's response](#) have been published on the Committee's webpage.

20. Documentation, information and relevant correspondence related to the policy development phase of the inquiry can be found [here](#).

#### *The Judicial Review*

- The Committee held an exploratory session with the Permanent Secretary and the Lord Advocate on the Judicial Review as part of its evidence session on 8 September. The *Official Report* is available [here](#).
- Judith Mackinnon, Head of People Advice; and Barbara Allison, former director of people, at the Scottish Government, gave evidence on 27 October. The *Official Report* is available [here](#). Prior to this evidence session, Barbara Allison wrote to the Committee, this letter can be found [here](#). Following this evidence session, Judith Mackinnon wrote to the Committee, this letter can be found [here](#).
- Paul Cackette, former Director of Legal Services at the Scottish Government; and Sarah Davidson, former Director General Organisational Development and Operations at the Scottish Government gave evidence on 3 November. The *Official Report* is available [here](#).
- The Lord Advocate and Permanent Secretary gave evidence on 17 November 2020. The *Official Report* is available [here](#). Following this session, both the [Lord Advocate](#) and [Permanent Secretary](#) wrote to the Committee.

21. Documentation, information and relevant correspondence related to the Judicial Review phase of the inquiry can be found [here](#). As can be seen, the Committee has received some documentation and information relevant to this part of the inquiry from the Scottish Government, but more documentation and information is being processed or has been requested.

#### **Clerks and SPICe Research November 2020**