



The Scottish Parliament
Pàrlamaid na h-Alba

COMMITTEE ON THE SCOTTISH GOVERNMENT HANDLING OF HARASSMENT COMPLAINTS

AGENDA

7th Meeting, 2020 (Session 5)

Tuesday 15 September 2020

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

1. **Decision on taking business in private:** The Committee will decide whether to take its work programme discussion on 22 September in private.
2. **Phase 1 - Development of the Scottish Government policy on handling harassment complaints involving current and former Ministers:** The Committee will take evidence from —

Sir Peter Housden, Permanent Secretary, Scottish Government, 2010-15;

and then from—

Barbara Allison, Director for Communications, Ministerial Support & Facilities, Scottish Government.

3. **Review of evidence (in private):** The Committee will review the evidence it heard at agenda item 2.

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

The papers for this meeting are as follows—

Clerk's Note

SGHHC/S5/20/7/1

PRIVATE PAPER

SGHHC/S5/20/7/2

Committee on Scottish Government Handling of Harassment Complaints**7th Meeting, 2020 (Session 5), Tuesday 15 September 2020****Scottish Government policy on handling complaints involving current and former Ministers****Evidence session 5: 15 September 2020****Background**

1. This paper has been produced prior to the Committee on the Scottish Government Handling of Harassment Complaints' fifth evidence session where the Committee will hear from Sir Peter Housden, former Permanent Secretary; and Barbara Allison, former Director of People, Scottish Government.
2. The evidence session will focus on phase one of the Committee's inquiry; the development of the Scottish Government policy on handling harassment complaints involving current and former Ministers. The Scottish Government has made a written submission to the Committee with associated records, and this is available [here](#). The Government has also provided a timeline of contributions to the complaints policy's development and this is available [here](#).
3. Sir Peter Housden was Permanent Secretary to the Scottish Government from 2010-2015 and has now retired from the Civil Service.
4. Barbara Allison was Director of People from 2009-2016 and remains a civil servant as Director of Communications and Ministerial Support.
5. [The Committee wrote to Sir Peter on 7 July 2020](#) asking for information in relation to its inquiry. The Committee's letter and Sir Peter's written submission to the Committee are attached at **Annexe A**.
6. Many of the points sought from Sir Peter are also relevant to Ms Allison, particularly with regard to HR functions such as the results from historic People Surveys.
7. During previous evidence sessions on the development of the Scottish Government's policy on harassment complaints involving current and former Ministers, the Committee explored the theme of organisational culture in which the policy was developed.
8. It is anticipated that today's session will explore matters, such as the policy which applied in advance of the development of the procedure on the handling of harassment complaints involving current and former Ministers from October 2017 and organisational culture.

Previous Evidence Sessions

9. This is the Committee's fifth oral evidence session, the Committee has previously heard evidence from:

- The Permanent Secretary 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 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 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 and Lord Advocate on 7 September. The *Official Report* is available [here](#).

Following the evidence session, the Permanent Secretary wrote to the Committee clarifying some points made during her evidence session. This letter can be found [here](#).

10. The evidence sessions on 18, 25 August and 1 September focused on the development of the policy on complaints against current and former Ministers, which is phase 1 of the Committee's inquiry. The evidence session on 7 September primarily focused on the Judicial Review phase of the Committee's inquiry, however initially the Permanent Secretary was asked to provide follow up evidence from her initial evidence session on the development of the policy.

11. [The Committee's remit and approach to its inquiry](#) is available on the Committee's webpage.

Clerks and SPICe Research September 2020

Written submission from former Permanent Secretary, Sir Peter Housden

Thank you for your letter of 7 July 2020 inviting me to submit evidence to Committee's inquiry on the Scottish Government's handling of harassment complaints.

I am pleased to be of assistance.

1. GENERAL

- 1.1. I served as Permanent Secretary to the Scottish Government from 2010-15 and as Permanent Secretary to the Department for Communities and Local Government from 2005-10. Previously I had been the Chief Executive of Nottinghamshire County Council and its Director of Education. In total, I thus served for nineteen years as the head of politically-directed public service organisations in England and in Scotland.
- 1.2. I retired as Permanent Secretary in Scotland in June 2015 and left the civil service. I thus have no access to material held on the Scottish Government's systems including emails or filing systems. Nor did I retain any hard copy files. I have, therefore, responded below the Committee's queries to the best of my recollection and drawn on material in the public domain where this is relevant to your concerns and included the appropriate link.
- 1.3. I am aware of the correspondence between the Convener and the Permanent Secretary on the ability of civil servants to give evidence in a personal capacity. As a retired civil servant, I am obliged to comply with the provisions of the Civil Service Management Code in respect of confidentiality.
- 1.4. If the Committee requires clarification of any of my responses below or seeks additional information I shall, where this is possible and consistent with the constraints above, be pleased to assist in writing or in person as required.

2. CULTURE

- 2.1. The Committee has requested my insight into:

2.1.1. the safeguards in place for staff that may have had cause to make a complaint about their treatment;

2.1.2. the steps the Government took under my leadership to assess the extent to which staff felt supported in raising issues; and

2.1.3. the steps taken to assess what factors impacted on staff willingness to come forward.

- 2.2. In terms of procedural safeguards in place during my time as Permanent Secretary, the following codes and policies are relevant:¹

2.2.1. the 2010 Scottish Civil Service Code provided officials with guidance on the standards of propriety and behaviour required in undertaking their duties. It did not otherwise refer to civil servants' working relations with Ministers.

2.2.2. the 2011 Scottish Ministerial Code provided guidance to Scottish Ministers and has a similar focus on propriety. It required in addition Ministers 'to observe the obligations of a good employer with regard to the terms and conditions of work of those who serve them'.

2.2.3. the Scottish Government's Fairness at Work policy set out in detail the standards of behaviour required within the Civil Service and described both the procedures to be followed and the support available to staff in instances where there were concerns, including those involving Ministers. This policy dealt explicitly with situations of bullying and harassment.

- 2.3. Beyond these formal procedures we sought in my time in Scotland to establish a culture and environment in which staff could thrive and give of their best. The Scottish Government Civil Service had a reputation for competence and innovation that stretched back over many decades but my perception on taking office in 2010 was there was considerable scope for improvement in the way that staff were listened to and supported.
- 2.4. There was of course a formal performance management system involving a twice-yearly review of progress and achievement.
- 2.5. I was concerned, however, to broaden and improve the day-to-day dialogue between each of our 5,000 staff and their line manager. Anecdotally, I became convinced that for many staff this was restricted to functional and transactional conversations - 'do this, have you done that?'
- 2.6. We thereby introduced - at the suggestion of a relatively junior colleague - the Monthly Conversation. This established the entitlement of every member of staff to an informal half-hour dialogue with their line manager at least once a month at which matters of well-being, development and professional support could be discussed in a supportive environment.
- 2.7. The Monthly Conversation was widely adopted and valued. Our 2014 'People Survey',² an anonymous and externally-administered survey which measured

¹ I have used material in the public domain to refresh my memory on the provisions of these documents. The Committee will have access to the definitive versions of the material current in the years 2010-15

² <https://www2.gov.scot/Topics/Research/by-topic/public-services-and-gvt/EmployeeSurvey/PeopleSurvey2014>

engagement across all UK Civil Service departments, found that 78% of staff were engaged in these dialogues and 79% found them useful. This level of intensity in our support for staff was unusual in the UK civil service at the time and drew appreciative interest from colleagues in Whitehall.

- 2.8. The Monthly Conversation thus enabled every member of staff to have a regular 'safe-space' to raise concerns and build solutions. It provided the opportunity for line managers to offer the close personal support that is key to building confidence and trust in their staff. In this context, the Monthly Conversation provided a much enhanced environment for staff to raise concerns of any kind, including those relating to bullying and harassment.
- 2.9. This policy was set within a broader strategic intent to increase level of staff engagement. As the Committee is aware, staff engagement is a recognised measure of the extent to which an organisation mobilises the intrinsic motivation of its staff. Engagement is maximised where staff believe in what they are doing as public servants; where they have a voice and feel valued in an inclusive environment; where they feel well-supported and are given the chance to shine; and feel their leaders and managers behave with integrity and authenticity.
- 2.10. There is strong evidence in the public, private and voluntary sectors of the link between levels of staff engagement and performance. Our strategic focus on staff engagement required the systematic attention of the senior team and a first-class HR function. Strong relations with the trade unions were also essential to ensure challenge and an open dialogue, and to provide staff with independent support where difficulties occurred. These factors were all in place and strengthened in my time in post.
- 2.11. To measure progress and guide action we had the advantage of the UKwide 'People Survey' referred to above.³ This enabled us to track and benchmark our progress.
- 2.12. It was important to ensure that our most senior staff, myself included, modelled individually and collectively the behaviours necessary to build supportive and inclusive culture. We used a variety of tools including team development, talent management and succession planning, and 360-degree feedback. Senior staff were thus held directly accountable for their behaviour and the levels of engagement in their teams. Senior staff across the organisation were also empowered to tutor the colleagues in their command who needed support and, where necessary, to call out poor behaviour and require improvement.
- 2.13. The Committee requested information on:

2.13.1. the outcome of any staff surveys seeking views on the incidences of bullying and harassment;

³ Archived copies of the annual survey stretching back as far as 2009 are available here: <https://www2.gov.scot/Topics/Research/by-topic/public-services-and-gvt/Employee-Survey>

2.13.2. any work to assess the number of incidences that went unreported;

2.13.3. any work undertaken to establish what factors impacted on the willingness of staff to report incidences bullying and harassment; and

2.13.4. any associated actions taken to address any barriers identified.

- 2.14. The annual People Survey provides evidence useful in assessing the general climate in the organisation and in relation to specific issues. There is a wealth of data but I would draw attention to four particular measures

2.14.1. 87% of staff felt they were treated with respect in 2010, 3% above the UK Civil Service norm. This measure remained at 87% in 2014, 2% above the UK Civil Service.

2.14.2. 42% of staff were confident that senior staff would take action on the results of the survey in 2010, 1% above the UK level. This rose to 50% in 2014, 3% above the UK norm.

2.14.3. 7% of staff reported that they had been discriminated against in 2010 against 10% in the UK Civil Service as a whole. This measure remained at 7% in 2014 against a UK figure of 8%.

- 2.14. 4. 8% of Scottish Government staff had experienced bullying and harassment in 2010 against 10% in the UK as a whole. This measure remained at 8% in Scotland and 10% in the UK in 2014.

- 2.15. Interpretation of the data on bullying and harassment is not straightforward. The survey records subjective perceptions of the impact of behaviour that is itself not rigorously defined. Firm and sensible line management would sometimes be interpreted as bullying and harassment. And the source of the alleged behaviour could be from a variety of different categories of staff, external partners and the general public.

- 2.16. My experience, however, in Scotland and elsewhere told me that these instances would include behaviour that would widely be regarded as wholly inappropriate and which required urgent remediation, and for support to be provided for the individual impacted.

- 2.17. Those monitoring the Fairness at Work policy in the Scottish Government would be better placed to attempt any further analysis of these cases. Every incidence was of course a concern but my recollection is that there was not thought to be a systemic problem of under-reporting in relation to bullying and harassment.

- 2.18. Particular allegations of bullying and harassment would, from memory, be discussed with me in ad hominem terms. The efficacy of our grievance and

other procedures to support staff were, however, often discussed in my meetings, including those the trade unions. We all needed to have confidence that appropriate measures were in place and we were acting on situations where indicated.

- 2.19. In considering our general approach, informal resolution was generally considered by all parties to the most appropriate and effective solution.
- 2.20. The member of staff making the complaint would also have their own views about how and how far they wished to pursue an issue and, within the boundaries of the law, these need to be respected.
- 2.21. There were circumstances, however, particularly in relation to egregious acts, where an attempt to resolve a matter informally would be inappropriate.
- 2.22. Understanding of cases involving sexual harassment and assault has grown considerably in recent years. It is now recognised that survivors' ability and willingness to progress matters through informal channels or formally can be significantly inhibited for a number of reasons. It can be many years before a survivor feels in a position to make a complaint.
- 2.23. I understand that the Scottish Government - in common with many other organisations - has augmented its safeguarding and support arrangements for staff in these respects. It has also taken action to ensure that those responsible, or with the inclination to behave in this way, are left in no doubt about the organisation's policy and response.
- 2.24. The Committee has asked whether, on reflection under my tenure there were more measures that could have been taken to ensure:
 - 2.24.1. *that staff and their managers in the Civil Service had sufficient support to be reassured that there would be no repercussions on those raising a complaint (or on those supporting someone making a complaint);*
 - 2.24.2. *that the procedures in place assured staff that where the complaint related to a politician, there was a sufficient separation of roles and the correct power balance in place, to enable senior members of the Civil Service to challenge senior politicians on their actions; and*
 - 2.24.3. *that the Scottish Government had a working environment where staff and politicians understood what did and did not constitute acceptable behaviour.*
- 2.25. Self-evidently there is much more to do across the board to protect women and others at risk, and to ensure that egregious behaviour by people in powerful positions is strongly disincentivised. I believe, however, that we took all reasonable steps in 2010-15 to ensure that the culture and procedures

within the Civil Service were appropriate to our task and meet our duty of care to staff.

- 2.26. In addition to examining policies and procedure, the Committee has properly focused on the culture of the organisation. Ministers have, of course, a significant influence on the culture. They engage with staff at a wide variety of levels and their behaviour is fundamental in setting the tone.
- 2.27. Ministers are of course individuals and within any administration there will be a variety of personalities involved and different ways of handling relations with staff.
- 2.28. Where there were individual Ministers whose behaviour was a cause for concern, the expectation was that the Permanent Secretary would manage these situations without recourse to formal procedures. Confidentiality requirements preclude me from sharing the particulars my experience but I took actions on these lines in a number of settings.
- 2.29. The limiting cases were, of course, situations where a formal complaint was brought against a Minister, and/or there was presenting evidence that an egregious act had been committed. In these cases, formal procedures would be followed.
- 2.30. Within the framework established by the Ministerial and Civil Service Codes, how can things be brought into better balance?
- 2.31. We are dealing here with matters of power and accountability. Authority is vested in the government of the day. Acting within the law, it is the role of civil servants to implement their programme. Ministers in Scotland are accountable to the First Minister and Parliament, not to civil servants. There is thus a structural imbalance of power and asymmetry in accountability.
- 2.32. A clear and transparent expression of how Ministerial and civil service procedures work together (such as a route map) is thereby important. In that way all employees and those who represent them can be clear on the process and options available, and safeguards can be made explicit.
- 2.33. Stronger external accountability for Ministers could be considered through an independent Parliamentary Standards Commissioner. Enabling complaints to be made outwith the political environment may help inspire a greater degree of confidence and instil robustness where this has been lacking.
- 2.34. Culture will remain the critical factor, however. The public climate is much more sensitised to these issues now and rightly so. There is a much stronger moral and reputational imperative on government to ensure appropriate standards of conduct are maintained.
- 2.35. A number of preventative measures could be considered. Enhanced Ministerial induction and on-the-job training could provide a foundation. Where standards fall below what is expected, access could be provided to a

range of support including coaching, counselling, assessment and professional development.

- 2.36. The key, however, will be political will. In particular the example set by senior politicians in their own conduct and in handling issues of concern will be the single most powerful influence in securing a safe, respectful and productive workplace.
- 2.37. The Committee invited me to comment on *“the adequacy of the agreed Procedure on handling of harassment complaints involving current or former ministers and the adequacy of the Ministerial Code or the Civil Service Code.”*
- 2.38. As someone now five years away from the civil service, others will be better placed to offer a perspective on these questions.

I hope this statement has been helpful to the Committee.

Yours sincerely

Sir Peter Housden
4 August 2020



The Scottish Parliament
Pàrlamaid na h-Alba

Committee on the Scottish Government Handling of Harassment Complaints

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Former Permanent Secretary

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BY EMAIL

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7 July 2020

Dear Sir Peter,

I am writing to you in my capacity as Convener of the Scottish Parliament's Committee on Scottish Government Handling of Harassment Complaints, to invite you to provide written evidence to the Committee's inquiry. The details of all of the forms of information that the Committee is requesting is in Annexe A. The written evidence submitted will inform decisions on which witnesses to call to give oral evidence before the Committee, and in what order.

As you may be aware, the Committee was established with the following remit:

"To consider and report on the actions of the First Minister, Scottish Government officials and special advisers in dealing with complaints about Alex Salmond, former First Minister, considered under the Scottish Government's "Handling of harassment complaints involving current or former ministers"⁴ and procedure and actions in relation to the Scottish Ministerial Code.⁵

The Committee has published a written statement on the handling of information and evidence, which is in Annexe B of this letter. Please refer to this statement for information on how the Committee will handle personal data provided in your submission. The statement also explains what personal data is not required. Where this applies to your submission, we request that you submit the evidence in a suitably anonymised format. It has also agreed a general initial approach to its inquiry which should provide useful context for your submission which is in Annexe C.

⁴ [Policy on handling of harassment complaints involving current or former ministers](#)

⁵ [Scottish Ministerial Code](#)

Culture

The Committee seeks insight from when you were Permanent Secretary of the Scottish Government in relation to the culture in the organisation at that time.

Specifically, the Committee is interested in:

- a. the safeguards in place for staff that may have had cause to make a complaint about their treatment;
- b. the steps the Government took under your leadership to assess the extent to which staff felt supported in raising issues; and
- c. the steps taken to assess what factors impacted on staff willingness to come forward.

The Committee would be interested in:

- a. the outcome of any staff surveys seeking views on the incidences of bullying and harassment;
- b. any work to assess the number of incidences that went unreported;
- c. any work undertaken to establish what factors impacted on the willingness of staff to report incidences bullying and harassment; and
- d. any associated actions taken to address any barriers identified.

The Committee also seeks your perspective on how the policy that preceded the new Procedure on handling of harassment complaints involving current or former ministers functioned in practice, including:

- a. the level of complaints made under previous policies;
- b. measures taken to support those complaining;
- c. measures taken to thoroughly investigate concerns raised; and
- d. details of the kinds of actions taken as a result of these investigations (without veering into the detail of any specific complaints).

Finally, the Committee requests that you consider whether, on reflection, under your tenure there were more measures that could have been taken forward under your leadership to ensure:

- a. that staff and their managers in the Civil Service had sufficient support to be reassured that there would be no repercussions on those raising a complaint (or on those supporting someone making a complaint);
- b. that the procedures in place assured staff that where the complaint related to a politician, there was a sufficient separation of roles and the correct power balance in place, to enable senior members of the Civil Service to challenge senior politicians on their actions; and
- c. that the Scottish Government had a working environment where staff and politicians understood what did and did not constitute acceptable behaviour.

The Committee is also inviting comment in written submissions on the adequacy of the agreed Procedure on handling of harassment complaints involving current or former ministers and the adequacy of the Ministerial Code or the Civil Service Code.

Oral evidence

The Committee intends to commence evidence taking in mid-August so a response from you on these matters is requested by 4 August. The Clerks will inform you at the earliest opportunity whether you will be called to give oral evidence.

Please note that the Committee has agreed that it will administer an oath/solemn affirmation for witnesses as a matter of course but that it will review this position in the case of any vulnerable witnesses.

Should you have any questions about this request or the handling of your written evidence, please do not hesitate to contact the Clerks to the Committee.

Yours sincerely

Linda Fabiani MSP

Convener, Committee on the Scottish Government Handling of Harassment Complaints