



OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 8 March 2018

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 8 March 2018

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
4th Meeting 2018, Session 5

CONVENER

*Clare Haughey (Rutherglen) (SNP)

DEPUTY CONVENER

*Patrick Harvie (Glasgow) (Green)

COMMITTEE MEMBERS

*Tom Arthur (Renfrewshire South) (SNP)

*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

*Jamie Halcro Johnston (Highlands and Islands) (Con)

*Elaine Smith (Central Scotland) (Lab)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Maurice Golden (West Scotland) (Con)

Rhoda Grant (Highlands and Islands) (Lab)

Bill Kidd (Glasgow Anniesland) (SNP)

Willie Rennie (North East Fife) (LD)

CLERK TO THE COMMITTEE

Joanna Hardy

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 8 March 2018

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Clare Haughey): Good morning and welcome to the fourth meeting in 2018 of the Standards, Procedures and Public Appointments Committee. We have received apologies from Elaine Smith MSP.

Agenda item 1 is a decision on taking business in private. Does the committee agree to take agenda item 4, which is on the budget process, in private?

Members *indicated agreement.*

Sexual Harassment and Inappropriate Conduct

10:00

The Convener: Agenda item 2 is the committee's inquiry into sexual harassment and inappropriate conduct. We are joined by Maurice Golden, the business manager for the Scottish Conservative and Unionist Party; Rhoda Grant, the business manager for the Scottish Labour Party; Patrick Harvie, the business manager for the Scottish Green Party; Bill Kidd, the chief whip for the Scottish National Party; and Willie Rennie, the business manager for the Scottish Liberal Democrats. Thank you all for joining us this morning.

The Scottish Parliament's survey results were published last week and revealed that 45 per cent of those who had experienced sexual harassment said that the perpetrator was an MSP, although MSPs made up less than 8 per cent of those issued with the survey. What do you think are the reasons for that?

Bill Kidd (Glasgow Anniesland) (SNP): I am happy to start. The figures are significant and are a salutary lesson for everyone in the Parliament. The Parliament as a whole and not just each of the parties needs to look at how best we address the issue. MSPs have trust put in them by the electorate—by their constituencies and by the people of Scotland—and it is incumbent on us all to set a high benchmark for society. Those figures let us all down. In the near future, we need to turn them around. We need to ensure that people feel safe and comfortable coming to their work and that whoever they happen to be employed by has a duty of care to them.

Patrick Harvie (Glasgow) (Green): We should be deeply concerned but probably unsurprised by some of the findings of the survey. In many walks of life, whether in the public eye or out of it, we have seen that the abuse of power is part of the dynamic. In show business, and in religious and other organisations, we have seen scandals emerge and growing recognition of an intolerable problem. I do not think that we should be surprised that it is the case in politics, too. We need to take collective responsibility, not just for the scale of the problem but for the power dynamics involved. In political life, the fact that some people in elected office are protected from the consequences that might come to bear in other workplaces is an unavoidable reality. In designing the processes and systems that we use to respond to the problem, we need to take responsibility for that.

Rhoda Grant (Highlands and Islands) (Lab): The findings are deeply disappointing. We all had

higher expectations of our colleagues and the figures are quite stark.

We have to try to drill down into those figures. Although 45 per cent of respondents who had experienced harassment said that the perpetrator was an MSP, it could be one MSP. If we drill down into the report, we can see that it was seldom one incident that was being reported; it was quite often a number of incidents and sometimes almost perpetual bad behaviour. What we find, quite often, is that one person or perhaps two people have been abusing their power. I suppose that we are no different in that from any other walk of life, but we need to ensure that people are comfortable about coming forward to report such behaviour. The chances are that we are speaking about a minority of members who are abusing their power and the position that they have been put in, and that they need to be dealt with to stop the recurrence of that behaviour.

As a Parliament, we need to create the right circumstances for people to feel empowered to come forward and get the right support.

Maurice Golden (West Scotland) (Con): I was shocked and surprised by the survey results. Rhoda Grant makes a very good point in the sense that, if it is indeed a small number—a tiny proportion of individuals—who are perpetrating these acts, that is quite a different issue from the culture being the problem.

Although I appreciate that the culture could vary within individual parties, my overall impression of the Parliament, as a new parliamentarian, is that the culture in this institution is similar to that in other public bodies—for example, the culture in Scottish Enterprise or Scottish Natural Heritage, which I have experience of. That does not mean that there could not be issues but there is not a cultural issue to address. That is my sense from my experience in Parliament.

On how we then look to deal with these issues and what processes we can put in place as parties and indeed as a Parliament, the steps that have been taken over the past few months are to be welcomed in terms of making sure that everybody is aware of the issue and that we are actively helping people, where there is an issue, to address it in an appropriate manner.

Willie Rennie (North East Fife) (LD): I suspect that the survey results might shake us from our complacency a little bit because we believed that we were better; we thought that Westminster was the place where it all happened and that up here, somehow, because we have a different culture and a different approach and we are a new institution, we were not subject to that. I hope that it might have just shaken everybody up a little bit and made them test their procedures and make

sure that we understand what kind of culture we have established here.

I accept all the points that have been made—it might be one person who is responsible, or it might be a number of people—but the fact that, of the respondents who had experienced sexual harassment, 45 per cent said the perpetrator was an MSP, shows that the issue is quite widespread so we need to try to review our procedures and make sure that we have got them right.

The response rate to the Westminster survey was quite low and therefore the authenticity of it was probably less. The response rate to the Scottish Parliament survey was quite high, so perhaps it is even more reflective of what is happening.

I was a member at Westminster—I was there for four years—so I have experienced both cultures. There is a late night voting culture at Westminster—we had to be there until 10 pm. I am not saying that everybody goes for a drink but everybody goes for a meal and there is an awful lot more socialising than perhaps there is here, so you would think that there was more propensity for such behaviour to happen down there. However, the fact that the figures are so high should give us a bit of a wake-up call about the need to look again at our procedures.

The Convener: To return to the survey, the most common response among those who had experienced inappropriate behaviour was to take no action. Why do you believe people are so reluctant to come forward when they have experienced this type of behaviour?

Bill Kidd: I have had a think about this. I have spoken to quite a number of members of staff over the past few months about the issue and I think that some people might have felt that, as has just been said by Willie Rennie, the cultural mindset is different here from that at Westminster, so maybe if they experienced something, they felt that they were on their own. They felt alone and they did not know that there were other people in a similar circumstance, which made it much more difficult for them to come forward and say something.

The fact that the survey has uncovered figures that are higher than we would have hoped for might open people's eyes to the fact that the right thing to do is to make representations about what is happening—in other words, to let people know about it—and, if necessary, to make a complaint. Such horrible things happen in recesses away from the public eye, and if we can bring harassment and inappropriate behaviour into the public eye, that will help to reduce it significantly. I feel really bad about people keeping such behaviour to themselves and being afraid to say anything.

Patrick Harvie: I want to mention three factors, one of which is relevant to the whole of our society. There has been a sense of people simply putting up with the endemic nature of sexual harassment and sexist and sexually entitled behaviour. Part of the reason for the committee's inquiry is that there is a mood afoot that time is up on such behaviour and that there is a need for change and a refusal to tolerate it. Throughout society—not just in this country but around the world—there has been a sense that women in particular have felt it necessary to live their lives with the expectation that such behaviour is normal. If we are now saying that it is not normal, we need to recognise that that is a moment for change in our culture.

There are two specific additional inhibiting factors that I think are relevant to the Scottish Parliament as an institution when it comes to people reporting such behaviour. The first of those factors is to do with loyalty. Most people who work in the political part of Parliament—I am not necessarily talking about Scottish Parliamentary Corporate Body staff or officials—have a sense of loyalty and commitment to the party group and to the politicians with whom they work, and there will be a feeling of reluctance to do something that would damage an organisation that they have a sincere personal commitment to. For me, that is an additional reason why Parliament should have its own procedures for reporting neutrally that do not rely on people raising an issue inside a political party. They should be able to do that if they wish to, but the additional option of a neutral, non-party-political route for raising such matters should be available to them.

The second factor relates, of course, to scrutiny. If, as has happened recently, an issue becomes high profile and becomes the subject of public comment, that might be an additional inhibiting factor. People might simply not want to face the prospect of going through such an ordeal, which could drag on for months and prevent them from being able to get on with their lives. There is probably not a simple solution to that, but I think that quick resolution of complaints that are raised will help and will avoid the perception that, if someone raises an issue, it will dominate their life for months and months.

Rhoda Grant: I think that the issue comes down to power dynamics, because people use and abuse their power to harass other people. They pick on people who, they hope, will not come forward because they are senior to them. That happens in most walks of life.

Another issue that impacts on the Parliament is the fact that MSPs are the employers of their own staff. Under our contracts of employment, we have a grievance procedure for our staff, but because

we are the employers, if someone has a grievance about their employer, there is virtually nowhere for them to go. Because they are employed by that person, neither the Parliament nor the party has any locus in the matter. That means that if someone complains about an MSP who is their employer, they will be worried about the roof over their head and about whether they will be able to continue to work for that person if the relationship totally breaks down. I would argue that that relationship has already broken down if they are being harassed and treated in such a way by their employer.

As a Parliament, we need to look at that dynamic and see what we can build into the measures on how we employ staff that would protect them from the stark choice of having to report sexual harassment and inappropriate behaviour or lose the roof over their head. People also need to know that they are being believed. If power dynamics are an issue, and the alleged offender is senior to them—they are probably well respected, too—people may be concerned that their voice will not be heard.

10:15

Patrick Harvie mentioned party loyalty and a member of staff being afraid to raise an issue because doing so would cause bad headlines for the party that they are committed to. I would suggest that if a person is harassing a member of staff, they are probably harassing a number of people, which would be even more reputationally damaging to the political party that staff are loyal to. Therefore, it is almost incumbent upon people to weed out that really bad behaviour to protect their party. That is another option to consider.

If a member of staff is talking about their employer, it becomes very difficult to make a complaint because, as I said, people need a roof over their head and they need to eat. I imagine that, most of the time, people would seek alternative employment to get themselves out of such a situation and would never report it. That is the crux of the matter, especially with MSPs, that we need to wrestle and deal with.

Maurice Golden: An additional point is that the vast majority of people in Parliament have not chosen to work in public life, and maintaining that confidentiality is an obvious and clear barrier to reporting an incident. Given that the vast majority of people would not choose to be in the newspapers, many people might not want to be put in a position whereby journalists will want to hear and to report on their story. I completely understand that.

That issue almost links to my second point, which is about confidence in the process and how

a complaint is dealt with. An allegation of sexual harassment or inappropriate behaviour must be dealt with confidentially. That approach, which should apply to both individuals, is as much about protecting the individual as it is about anything else. It is absolutely critical that the process is robust to allow incidents to be reported.

Separate to the committee's inquiry, and prior to the revelations coming out, I contacted all the Conservative members of staff to say that if there was any issue at all, including grievance procedures—I did not specify this topic—I was available to speak to them. Such an approach can be helpful to ensure that individuals will report incidents, because it gives them confidence in the system and the process that will follow.

Willie Rennie: I do not have much more to add. When the #MeToo campaign broke, it was like a dam bursting. All of a sudden, people felt that they could speak and be heard, and they were respected for that. Perhaps, through our process, a dam may burst in the Parliament and the balance between damage limitation, which is often the focus of a political party when there is negative publicity, and doing the right thing might be tilted more in favour of the latter approach.

I agree with all the points that have been made, particularly Maurice Golden's point that many people who work in the Parliament do not do so to come under the spotlight. Dealing with a sexual harassment case is bad enough without having to tell the newspapers at the same time; washing your dirty linen in public is difficult to do. We need to provide easier paths for people to make a complaint and for complaints to be dealt with sensitively.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): The fact is that few people who have experienced harassment take action. Over the past few weeks, two of the themes that we have heard about is that that is because they do not know what the procedures are or, if they do, they do not have confidence in them. What in your party's procedures might prevent people from coming forward? Over the past few weeks, what actions have your parties taken to raise awareness of the procedures or to change them? In particular, I want to focus on who the first port of call is. If it is an MSP, that strikes me as a bit of a problem.

Willie Rennie: Members of staff can choose from a variety of channels. The business manager is one and the Commissioner for Ethical Standards in Public Life in Scotland is another. As a result of our party's experience in recent years, we have set up a pastoral care officer, which is a UK-wide role. Although that person is employed by the party, they are clearly seen by people in the party as separate from the management structure

and respected as such. We set up that role two or three years ago, and it seems to have bedded in reasonably well. We are prepared to review that, because it has been suggested that an independent person who is outside the party should conduct that role. However, for now, we want to continue with the current procedure, which is relatively new, to see how it settles in.

We have set up a number of channels: the business manager, the ethical standards commissioner and the pastoral care officer. The pastoral care officer gets reasonably regular correspondence about a number of issues, so they are seen to be a major part of the party structure.

Kate Forbes: How is information on that circulated so that all party members are aware of the process?

Willie Rennie: Everybody received a letter—it was from Mike Rumbles, as he was business manager at the time—which sets out everything clearly and specifies how to define bullying and harassment. We think that the approach is pretty transparent for members of staff.

Bill Kidd: The process that Willie Rennie described is a logical one, and I hope that the SNP's approach is reasonably logical, too. I am the chief whip in the SNP group in the Scottish Parliament, but we have a team of whips, who are not all men. On that basis, I hope that if a woman had an issue and felt uncomfortable about speaking to a man about it, they might find someone who is easier to speak to.

I will say something more about how the party operates in the Scottish Parliament, but first I want to say that there is and should be a sort of camaraderie element. People do not feel that they are isolated and have no one to talk to because they are sitting in their own wee box in an office—there is a mixing that goes on. When people have had issues with an MSP or someone else, I have sometimes heard about it not directly from the person in the first instance but from others who have spoken on their behalf. As was mentioned, somebody might be embarrassed or worried about talking about the issue. They might be worried about losing their job or having the focus of attention shift on to them. That sort of reporting happens, although that is anecdotal to an extent.

On the party procedure, all SNP staff in the Parliaments in which we have SNP representation and at the SNP's headquarters received a letter from Nicola Sturgeon as party leader, which outlined the duties of care that we all have to each other and named a solicitor with the firm of lawyers that the SNP uses to whom people can report things. Also outwith Parliament, there is a point of contact at the SNP headquarters, which is the party clerk. SNP members are encouraged to

go people outwith the group of MSPs if they feel that there is an issue.

Patrick Harvie: On the issue of party procedures, members will be aware that the Scottish Green Party has gone through a huge amount of change in recent years. Our membership is much bigger than it was before 2014, so we have been trying to review and reform how we organise the party, to a great extent. That process has been delayed by the amount of elections and referendums that have come along since then, but we have made progress on the conduct complaints side—more than we have made on other things.

We used to have a system that involved a slightly arcane process. It took too long to resolve issues—that refers to the first part of Kate Forbes's question, because one of the reasons why people were unhappy about raising an issue internally in the party was the length of time that it could take to resolve the issue. The process also involved not only some elected members of the party but a random selection of party members, who played the role of a jury, in a sense, in certain circumstances. Again, that gave rise to lots of problems around timescales, people's access to the right amount of support and people's ability to understand issues.

Recently, we have done away with that system. We have set up a new system whereby each branch appoints a welfare and conduct officer, who has to be someone who does not have any other position in the party, whether that involves being an officer, a candidate or anything like that. The group of welfare and conduct officers works together across all our branches, and our national conduct and complaints committee is developing new processes.

The policy that was put in place was to be discussed at our party council meeting the other week, but that was cancelled because of the bad weather. That was the meeting at which we were supposed to put in place new procedures for the interim period between the old system going out and the new one coming in.

Basically, we are in the middle of quite an extensive redesign of how we deal with all matters to do with complaints, conduct and the welfare of our party members. Once that is in place, our parliamentary group will more than likely apply that in the same way that the branch would, by having one person who does not hold another office—so it would not be an MSP—acting as a welfare and conduct officer, and tying into the rest of the party. If a complaint goes through that process, that would involve our operations manager—that is, our senior staff member—working with our standing orders committee and our operations

committee to develop processes that are right for each circumstance.

As we are a small political group, we do not have the big team of whips that the SNP group might have, for example. Therefore, we are keen to ensure that issues can be resolved without relying on someone who might be involved in the issue or who might be a close colleague of the person who had been complained about. We would be keen to ensure that the process taps into the party's external processes.

I would add one final caveat. I know that the committee has discussed the lack of the ultimate backstop of an MSP being dismissed from their job. If complaints of the sort that we are talking about all go through political parties, I fear that we might still be in a position in which that backstop is not possible, because the outcome of an investigation needs to be available to a body that has the authority to make a decision around disciplining a member to the point of expulsion or removal from office. A political party would not be in the position to do that. Again, that leads me to ask whether we should expect people to go through party procedures in these kinds of circumstances. It seems to me that, with regard to the most serious issues, where we would want a disciplinary option to be available, we should be able to tap into an independent and official process for disciplining MSPs, and not necessarily a party process, as that process might not be capable of taking that kind of disciplinary action.

10:30

Rhoda Grant: We have a formal process, which the committee has details of. However, as everyone recognises that a formal process is probably not the first port of call for somebody experiencing the issues that we are talking about, we also have a contract with Rape Crisis Scotland for a confidential helpline that people can contact.

We are also clear that we need to do as much as we can to support and encourage people to come forward, and we have reminded staff that they can contact their leader or our group executive members. In other words, they are able to contact five different people in the party group. I know that people might be reluctant to contact someone whom they see as a friend of the person about whom they are complaining, so it is really important that we give them a variety of people whom they can contact and raise the issue with. They can also raise the issue with the general secretary of our party, so there are a number of routes that can be taken.

Of course, the issue can also be raised with the police. Sexual assault is a crime, and if that is what people are facing, they do not necessarily

have to go through any party procedure—they can just report the matter to the police. Indeed, I would encourage anyone who wants to disclose behaviour that falls into that category to do so.

What is most important, however, is that we get beside the person and support them. It is quite a frightening place to be in, especially if you feel that your life and work are being affected, and it is really important that there are people beside them not only to help and support them through the process but to let them be in charge of the steps that they take.

Maurice Golden: There is widespread knowledge in the Conservative group of how to report an incident, and there are a number of channels by which an individual can do that. For example, there is a confidential phone line and email address as well as—if you like—slightly more informal mechanisms via me as chief whip and business manager, via the director of the party, via our staff representatives at Holyrood, although they are not there specifically to deal with this topic, and via members of staff trained in mental health issues. There are a number of routes through which people can choose to raise not only this particular topic but a range of other issues.

I certainly have confidence in the code of conduct and how the system works, and I think that we would need to be very careful about putting a non-party system in place. I will give you an example to illustrate my concern about putting in place a system that did not come from the parties. After the Scottish parliamentary elections, a member from another party made a claim to the police about a dispute over irregular election expenses. That person then immediately phoned the journalists, who managed to confirm that the individual in question was being investigated for a breach of election rules, and the story ran for six months until the police dropped the case. MSPs would somehow need to be protected from vexatious claims if they were deemed not guilty. It be inappropriate for the individual MSPs concerned if parties were to choose to make vexatious claims about them, but we also need to remember that we are all here to give individuals not only confidence in the system but confidence that things can be kept confidential if they so wish and that we actually deal with sexual harassment and bullying issues. That must be the focus of any recommendations of the parties or, indeed, the committee, and I am therefore not convinced that another system would necessarily solve the issue.

Kate Forbes: What would be the solution to a situation involving individuals from two or more parties?

Rhoda Grant: I believe that, if a member of staff from your party made an accusation about an

MSP from my party, both parties would work together on the matter. I would expect your party to support your member of staff, and I would expect our party to take the matter very seriously and deal with the perpetrator of the abuse.

I do not think that the issue is party political; it is much too serious to be used in party-political game playing. It is in all our interests to ensure that sexual harassment is weeded out, and if that means us all working together, I think that we will do that. I would have no problem whatsoever in working with another party if I thought that one of my members was perpetrating that kind of abuse against anyone in the Parliament or in another party.

Bill Kidd: Kate Forbes's question is important. I agree entirely with Rhoda Grant; I definitely think that we would work together across the parties to address such a challenge. The parliamentary authorities are very helpful on such issues and would help to bring us together to resolve them. I know for a fact that the chief executive's office and the human resources department would be very willing to provide support should such situations arise.

The Convener: We will move on to Mr Arthur. I know that we all like to talk, but I ask the panel members to keep their answers slightly shorter.

Tom Arthur (Renfrewshire South) (SNP): Good morning to the panel. I want to pick up on the point that Patrick Harvie raised about an ultimate sanction. Clearly, that would have a significant bearing on the confidence in any complaints process. The nature of an MSP's employment is unique, and they can ultimately be disqualified only for acts that breach the threshold of criminality. In other occupations, dismissal can occur for acts of gross misconduct, but that does not necessarily apply to MSPs.

I would like to hear the panel's views on an ultimate sanction and how that could be administered. I would also like to hear any specific thoughts on the power of recall in relation to those matters.

Willie Rennie: I will kick off. I have been quite a long-term advocate for a system of recall. We need to be careful that it would not be used for political motives and that it was based on disciplinary issues. The system that Westminster has come up with, in which a combination of different thresholds need to be met, including a public threshold, is an appropriate system to adopt.

The Westminster recall system is based on whether an MP has received a prison sentence of less than 12 months—if the sentence is more than 12 months, they are automatically excluded; whether an MP has had a suspension from the

standards committee at Westminster; and whether an MP is found to have put in misleading or fraudulent expenses claims by the Independent Parliamentary Standards Authority. Those are the three triggers. The Speaker of the House of Commons will then issue a notice for a petition, which needs to have the support of 10 per cent of the electorate in the MP's constituency.

We would need to take into account that the Scottish Parliament uses a different electoral system, with regional lists, and we would also need to consider internally whether those were the right thresholds.

It should not be a free-for-all. A politically motivated group of people should not be able to try to oust an MSP whom they happen to disagree with politically. A number of thresholds would need to be met. In some way, that would help us to police ourselves in certain circumstances.

There have been a number of individual cases in the Parliament—which I will not mention—that go back a number of years, and we have felt helpless to do anything about them, so I would support the introduction of a system of recall here. We need to look at the Westminster system and understand whether its hurdles or thresholds are the right ones, but the idea is worthy of consideration.

Patrick Harvie: I would have serious concerns about such a system. I can see a case for a system of recall in relation to political matters. For example, if an MSP's constituents were angry at a political decision that the MSP had made—perhaps one that conflicted with their manifesto commitments or their stated policy—they might say that they had a democratic right to change their decision on the election of that MSP.

In my view, having such a recall process specifically in relation to issues such as sexual harassment would inevitably turn the matter into a public campaign. Even if a threshold had been reached to do with disciplinary matters that had been properly investigated, and even if the intention had nothing to do with political matters or the political identity or affiliation of the MSP in question—if, in other words, the process was being used for the right motivation rather than vexatiously—we would still, ultimately, be turning what should be a serious disciplinary matter into a public campaign at the ballot box. I am not suggesting for a moment that the Scottish political landscape should be compared directly to that of the US, but we have seen elsewhere the situation in which someone bragging about committing sexual assault can win high office.

Having such a process would also exacerbate two existing problems that might inhibit people from raising a complaint—the prospect of the

issue that they were complaining about being turned into something that dominated their life and made the case extremely high profile, and a lack of consistency in the disciplinary consequences of the action that was being complained about. People need to have confidence that unacceptable behaviour will be dealt with properly and consistently, and I have concerns that a recall mechanism would not achieve that.

I think that there is a far stronger case for reviewing the disqualification criteria that currently exist and ensuring that, as in any other workplace in which there has been a failure to meet certain standards of behaviour, there is a disciplinary process that can result in somebody being dismissed on the ground of gross misconduct or something similar, and I think that that should be taken outside the political process.

Rhoda Grant: Yes. There has to be a process for dealing with people who have committed what will be crimes and who have abused their power. People are elected on political issues, and they seek re-election every five years, which is when people make a judgment about their political ideals. However, there has to be a process to deal with somebody whose behaviour has fallen short, and that process should not be a political or a public process. We have commissioners such as the Commissioner for Ethical Standards in Public Life in Scotland, who look at people's behaviour, so we should look to that system to establish whether there are steps that can be taken when a case is proved against a person and their behaviour has fallen way short of what we would expect from an elected representative.

Maurice Golden: On recall more generally, the list system does not lend itself to that particularly well given that, in many regions, regardless of what any individual MSP had done, there would be enough voters for the other party to ensure that the requisite number of petitioners was reached.

We need to make a distinction between matters that are the subject of disciplinary action and matters that are the subject of criminal proceedings and, ultimately, criminal convictions, which are quite different. There could be cases in which criminality is seen in a political sense to be justified. An example is the objectors who were involved in the campaign against Trident and who, as a result of their political consciousness, ended up with a criminal conviction. We need to concern ourselves with that distinction. Disciplinary matters need to be dealt with by the party in a way that is proportionate to the act that has been committed.

10:45

Bill Kidd: As everyone has said, it is important that we are now looking at the perpetrator rather

than the victim. It is also important that we do not just say, "That was a bad thing to do. Don't do it again." That does not fill anybody with much confidence.

We have to take seriously some direction on disciplinary matters. Perhaps that requires all the parties to work together through the SPCB to consider how we might take matters forward and what would work best in our Parliament. We could borrow from other Parliaments' experiences and maybe even come up with new ideas about how we will handle the future prospects of those who have committed gross misconduct or, indeed, criminal acts. We might need to figure out a hierarchical system of responses from the Parliament and the parties for that. We have not looked deeply enough into that yet. Maybe this inquiry could be a first stepping-stone to doing so.

Alexander Stewart (Mid Scotland and Fife) (Con): Confidentiality has been identified as one of the big issues when we have taken evidence—the survey also touched on that. That victims lack confidence about how cases would be treated and the support that they would receive has already come through. What are your parties doing to manage that? Is external support being given to try to bridge that gap? If people believe that the parties are managing that and they do not have confidence in dealing with it, what support mechanisms have you put in place to ensure that outside sources can support you and the victim to have more confidence in the process?

Bill Kidd: As far as the SNP and the SNP group are concerned, we hope that we are taking the decent and caring approach that everyone would like to see.

On support for complete confidentiality for complainants of misdemeanours against them, we have ensured that names are removed from any documents. If the person could be identified through statements, there are redactions, and there is support for any needed outside interventions that can be brought to bear in support of someone who has suffered such behaviour towards them. That is very important.

The question is a really good one. A lot of people are frightened of reporting anything because they do not know where that would leave them or whether they would be left to deal with things on their own. We talked about that earlier.

It is particularly important that we ensure that those who have had a misdemeanour committed against them have a full apology for a start. That might not be enough, but it would certainly be a beginning. It is important that that apology should come from the person who committed the conduct and from the political party that the person has represented. It is also important that the individual

receives support from whichever body is the most appropriate. I think that Rhoda Grant mentioned that that could be from Rape Crisis Scotland. It could be from another counselling office that can help people.

The person who committed the misdemeanour should be offered support to change their behaviour patterns. We are not a court; we are a body of individuals who have come together for a particular cause. We cannot take a criminal-style approach. We are not imprisoning people; we are trying to bring such behaviour to an end and to change the behaviour that some people have been indulging in.

Rhoda Grant: Our formal complaints procedure is anonymised, as is our confidential helpline. However, when people make informal complaints, it is important that they are put in the driving seat. It should be up to them to decide whether their name should be made known and what action they want taken on their behalf. Given that we are talking about an abuse of power, it is important that the victim is empowered through the steps that are taken to put the situation right.

Patrick Harvie: The interim policy that I mentioned and that is being put in place during the redesign of our party's internal processes goes into issues of confidentiality and data protection in relation to sensitive information. The welfare and conduct officers who are currently being appointed have access to external training, which will support them to understand their responsibilities in that regard.

As I said, we are still in the process of implementing the newly designed system. The one area that we are not yet clear about is communicating how it all works to our members, whether that is those in the parliamentary group or our wider party members, once the system is fully up and running. Obviously, the next point of action is to communicate how people access and use the process and to give them confidence that they can do so confidentially.

Jamie Halcro Johnston (Highlands and Islands) (Con): How do you balance the duty of care to the person who is making the accusation with the duty of care to the person who is being accused? In particular, if they both work in the same building or office environment and both want to continue working in that environment, how do you balance the duty of care to both?

Bill Kidd: That is a particularly important question. I hope that this would not happen in the vast majority of cases, but in some cases someone might leave the Scottish Parliament because they no longer can or wish to work here. As we talked about earlier, we need to have support for people who have had unfortunate bad

behaviour committed towards them, and we need some kind of behaviour counselling for those who have committed such behaviour.

On an everyday matter, the Parliament is a certain size and shape, so it is difficult to isolate people from each other permanently. However, it is important that we co-operate with the parliamentary authority to try to ensure that people are not cheek by jowl and that there is a degree of separation to allow them to feel comfortable coming into work. As I have said, no party can do all of that by itself. We will have to co-operate with the chief executive's office and the Presiding Officer to try to ensure that we have a decent working environment for anyone who has suffered from such behaviour. I know that the Scottish Parliament is willing to co-operate in that.

Patrick Harvie: In general, the principal duty of care has to be to the person who makes the complaint in the first instance. Beyond that, it would be a mistake to be too prescriptive.

Different circumstances will apply. If the complaint has been made informally and the expectation is that unacceptable behaviour is to be constructively challenged, changed and learned from, that is different from a situation in which a much more serious action is being complained about and a disciplinary process has been put into practice at a formal level. Again, it would be different if the case involved someone working in the Parliament, as opposed to someone working in a local office, for example. The important thing is to judge the situation on its own terms and to listen to the needs and wishes of the person who is making the complaint in the first instance.

Willie Rennie: We would be guided by our pastoral care officer with regard to what would be appropriate in those circumstances because, as Patrick Harvie said, every case will be different. However, it would be helpful to have a professional adviser who could say what would be appropriate in the circumstances. We work closely together, and we probably all want that to continue in as easy a way as possible, so having somebody professional who is slightly removed from the issue might be the way to achieve that approach. However, we should also ensure that we treat everybody appropriately and fairly and do not automatically assume that, because someone has been complained about, they are guilty. Likewise, we should not dismiss those who have complained. Keeping the balance right is pretty difficult in many environments, but that is what we have to try to achieve.

Rhoda Grant: That takes me back to the issue that I raised early in today's session. If you are talking about an MSP harassing their own staff, you are in a difficult position, because the structures in the Parliament do not allow things to

be put in place in that regard, as the MSP is the employer. You cannot say, "You must not have any contact with that person," because you have no locus over that employment arrangement.

There are certain things that you can do. For example, if another MSP in your group had a staff vacancy, you could ask them to consider taking on the person who had complained, so that their employment could be protected. However, you have no ability to do that other than by appealing to people's good will. That is the real issue. Until we sort that out and find a way of dealing with that, people will not come forward, because they will be worried about their job. They will know that there are no formal steps that a business manager can take to give them alternative employment and remove them from that situation. To follow the issue through, if there were a way of dismissing the MSP for gross misconduct, that would mean dismissing the person's employer.

We have a difficult problem ahead of us. We need to give serious thought to it, and I hope that the committee will do that. We need to find a way around these issues so that we can provide a safe way by which people can report matters in confidence and with the assurance that their future livelihood is not at stake.

Maurice Golden: Having a speedy, effective, confidential and commensurate process ultimately helps to deliver the duty of care for both individuals concerned in the issue. As some of my colleagues have highlighted, there are opportunities in each individual case to ensure that the process is carried out effectively, whether that is through the individual working for the group in a different office or whatever. There are ways by which we can ensure that every instance is treated with the utmost care for both individuals concerned.

The Convener: I thank our witnesses for coming along this morning and providing us with important evidence, which will help us as we consider how to proceed with the inquiry.

10:58

Meeting suspended.

11:00

On resuming—

11:01

Meeting continued in private until 11:28.

Correspondence

The Convener: Agenda item 3 is consideration of the correspondence that the committee has received from the Equalities and Human Rights Committee. Are we content to note the letter?

Members *indicated agreement.*

The Convener: Thank you. As previously agreed, we will now move into private session.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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