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Standards, Procedures and Public Appointments Committee

Comataidh Inbhean, Dòighean-obrach is Cur-an-dreuchd Poblach

Complaint against Mark McDonald MSP



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Contents

Introduction	1
Decisions of the Committee	2
Conclusion	3
Recommendation	4
Annexe A - Extracts from Minutes	5
Annexe B - Report from the Commissioner for Ethical Standards in Public Life in Scotland	6

Standards, Procedures and Public Appointments Committee

The remit of the Standards, Procedures and Public Appointments Committee is to consider and report on—

- (a) the practice and procedures of the Parliament in relation to its business;
- (b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
- (c) the adoption, amendment and application of any Code of Conduct for members; and
- (d) matters relating to public appointments in Scotland; and
- (e) matters relating to the regulation of lobbying.



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Introduction

1. The Committee met on 14 and 21 June 2018 to consider a complaint from James Dornan MSP about Mark McDonald MSP. The complaint alleges that a female member of staff employed by the complainer was a “targeted victim of harassment and sexual innuendo at the hands of” the respondent.
2. The Commissioner for Ethical Standards in Public Life in Scotland investigated the complaint and found that Mark McDonald was in breach of section 7.2.3 of the Code of Conduct for MSPs (6th Edition, 29 April 2016).
3. In examining information relating to the complaint, the Commissioner was made aware of Mark McDonald’s conduct towards another staff member and decided that this was relevant to the complaint under consideration.
4. Annexe B to this report containing the Commissioner's full report and appendices is incorporated in and forms part of this report.

Decisions of the Committee

5. The Committee is unanimous in the decisions reached on the complaint. Firstly, it agrees with both the findings in fact and the conclusion of the Commissioner that Mark McDonald failed to treat one witness with respect, and that his conduct towards her involved sexual harassment, and that he also failed to treat a second witness with respect in relation to a financial matter. The Committee agrees with the Commissioner's finding that both behaviours were in breach of the Code of Conduct for MSPs.
6. Secondly, the Committee considers that the breaches justify the imposition of sanctions on Mark McDonald.
7. While the Committee's role in the complaints process is specifically focused on considering the Commissioner's findings in fact and conclusion, the Committee would also like to comment more generally on the nature of the complaint.
8. The [Zero Tolerance](#) statement agreed by the Presiding Officer, the Chief Executive and the party leaders on 12 June 2018 provides clear definitions of sexist behaviour and sexual harassment and makes it clear that these behaviours do not belong in the Parliament. The Committee fully endorses this statement. In the Committee's recent report on sexual harassment and inappropriate behaviour the Committee identified a number of potential areas in which the Code of Conduct could be strengthened and the Committee will pursue these revisions in the coming parliamentary year.
9. The Committee would also like to comment on the confidentiality requirements in the complaints process. These requirements are set out in the Code of Conduct for MSPs.
10. The Committee previously expressed disappointment that details of the complaint were shared with the media by James Dornan. It is an explicit provision in the Code of Conduct that Members must not disclose, communicate or discuss any complaint or intention to make a complaint to or with members of the press or other media prior to the lodging of the complaint or during Stage 1 and 2 of the procedure for dealing with complaints.
11. In addition, before the Committee had seen the Commissioner's report, it appears that its findings had been shared with the media, further undermining the confidentiality of the process.
12. In her initial statement on this matter in March, the Convener said that proper processes must be observed in order to ensure a robust outcome. The Commissioner and this Committee must be able carry out their work without any external interference.
13. The Committee considers it unacceptable that the confidentiality requirements have been flouted more than once during the course of this complaint. This is disrespectful to the process and those involved, as well as to the Committee and the Parliament. Whilst the Committee's decision relates solely to the complaint regarding Mark McDonald, the Committee will return to the issue of confidentiality.

Conclusion

14. The final decision on whether to issue sanctions lies with the Parliament. The Committee looked at the full range of sanctions available to the Parliament and agreed that these sanctions should send a clear signal about the seriousness of Mark McDonald's conduct, but should not have a financial impact on his staff nor unduly impact on his ability to represent his constituents.

Recommendation

15. The Committee recommends that the Parliament agrees to—

- exclude Mark McDonald from proceedings of the Parliamentⁱ for a period of one month which will not overlap with any period of recess;
- withdraw his salary for a period of one month to coincide with his exclusion from proceedings of the Parliament;
- withdraw his right of access as a member to the Holyrood Parliamentary complex for the period of one month to coincide with his exclusion from the proceedings of the Parliament; and
- withdraw his rights to any representational, ceremonial and related privileges until dissolution.

ⁱ In addition to attending meetings of the Parliament and its Committees, taking part in proceedings of the Parliament includes any of the following—(a) lodging questions for oral or written answer, (b) lodging motions, amendments to motions, (c) introducing a Bill, or lodging a proposal for a Member's Bill, (d) lodging amendments to Bills, or (e) adding the member's name in support of any of the proceedings referred to in (a) to (d) above.

Annexe A - Extracts from Minutes

13th Meeting, 2018 (Session 5), Thursday 7 June 2018

Decision on taking business in private: The Committee agreed to take item 3 in private.

Decision on taking business in private: The Committee agreed to take future consideration of a report from the Commissioner for Ethical Standards in Public Life in Scotland, and its own draft report on the complaint, in private at future meetings.

Complaint (in private): The Committee considered a report from the Commissioner for Ethical Standards in Public Life in Scotland.

14th Meeting, 2018 (Session 5), Thursday 14 June 2018

Complaint (in private): The Committee continued its consideration of a report from the Commissioner for Ethical Standards in Public Life in Scotland.

Complaint: The Committee announced its decision at Stage 3 on a report from the Commissioner for Ethical Standards in Public Life in Scotland.

Complaint (in private): The Committee agreed its draft report.

Annexe B - Report from the Commissioner for Ethical Standards in Public Life in Scotland

[Link to the Report from the Commissioner for Ethical Standards in Public Life in Scotland
\(13.3 MB pdf\)](#)

