



The Scottish Parliament
Pàrlamaid na h-Alba

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1st Report 2021 (Session 5)

Standards, Procedures and Public Appointments Committee

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

Code of Conduct Rule changes- Treatment of Others



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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;
- (ab) a proposal for a Bill relating to the arrangements for financial assistance to non-Government political parties represented in the Parliament;
- (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;
- (e) matters relating to the regulation of lobbying; and
- (f) matters relating to Scottish general elections falling within the responsibility of the Cabinet Secretary for Government Business and Constitutional Relations.



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Introduction

1. Rules governing MSPs' conduct are set out in the Code of Conduct for MSPs.
2. The Standards, Procedures and Public Appointments (SPPA) Committee is responsible for recommending that changes are made to the Code of Conduct. If the Parliament agrees these changes, they come into force.

Background

3. Section 7 of the Code of Conduct covers MSPs' general conduct. It requires Members, at paragraph 5, to treat other MSPs; parliamentary staff (including contractors providing services to the Parliament); and their own staff and the staff of other MSPs with courtesy and respect.
4. During the course of the Committee's work on sexual harassment and inappropriate conduct, the Committee noted that the Code of Conduct did not cover MSPs' conduct towards the treatment of individuals who do not fall in to these categories – constituents and people visiting the Parliament for example.

SPPA Committee Consideration

5. The SPPA Committee considered the issue at its meetings on 28 November 2019, 1 October 2020 and 3 December 2020. It agreed at its meeting on 3 December 2020 to consult on the proposed changes set out in Annexe A.
6. The Committee's approach has been designed to ensure that the Parliament would be able to hold MSPs to account if they behaved inappropriately towards individuals external to the Parliament - such as members of the public, constituents or CPG members for example - who they had come in to contact with while performing their Parliamentary duties. At the same time, the Committee recognises the importance of protecting Members' ability to engage robustly in matters of political debate. The proposed change does not therefore—
 - interfere with an MSP's private life
 - apply to minor instances of discourtesy or disagreement
 - curtail an MSP's freedom of expression and ability to take part in robust political discourse.

Consultation

7. The Committee has received responses from two MSPs and from Engender, The Scottish Women's Convention, The Scottish Women's Rights Centre and from the Minister for Parliamentary Business.¹
8. Engender said that—
 - ” because of the seniority of MSPs as political and civic figures, unequal power relations are likely to be particularly acute between MSPs and third parties, such as political party volunteers or activists and members of the public. Where these relationships involve a gendered element,² wider structural and social tolerance of sexist attitudes and behaviour creates an enabling culture which puts women at an increased risk of harassment and abuse. We therefore strongly support the proposed revision to MSPs' Code of Conduct to extend the standard for the treatment of individuals to all those whom MSPs come in to contact with in the course of performing their role as parliamentarians.
9. The Scottish Women's Rights Centre (SWRC) also welcomed the proposed change, noting that it “would underscore Parliament's commitment to a zero-tolerance approach in tackling sexual harassment and ensure that MSPs in breach of the Code can be held to account”. The SWRC emphasised the importance of publicising the change.
10. The Scottish Women's Convention supported the change, pointing out that “there should be a zero-tolerance standard towards inappropriate behaviour in whatever form it may take and towards all individuals, regardless of who they are.”
11. The Minister for Parliamentary Business indicated that the Government strongly supports the Committee's proposal.
12. Murdo Fraser MSP indicated in his response that he was supportive of the proposal but had concerns about its potential for misuse. He welcomed the qualification that the change would not prevent the expression of opinions which some members of the public might deem to be inappropriate but urged careful consideration, warning of an increased number of complaints and the time-consuming and even distressing work involved in MSPs responding to such complaints.

Recommendation

13. **The Committee recommends to the Parliament the changes to the Code of Conduct set out at Annexe A of this report.**

Annex A: Code of Conduct Rule changes

Treatment of others

5. Members must treat the following individuals with courtesy and respect:
 - other MSPs;
 - parliamentary staff (including contractors providing services to the Parliament); and
 - their own staff and the staff of other MSPs.

6. Members must not behave in a manner towards **those individuals in 7.5 or any individuals they are in contact with in their capacity as MSPs** that involves bullying, harassment (including sexual harassment), or any other inappropriate behaviour.

Annexe B: Written submissions

- [Engender \(122KB pdf\)](#)
- [Murdo Fraser MSP \(98Kb pdf\)](#)
- [Graeme Dey MSP, Minister for Parliamentary Business and Veterans \(91KB pdf\)](#)
- [John Mason MSP \(54KB pdf\)](#)
- [Scottish Women's Convention \(66KB pdf\)](#)
- [Scottish Women's Rights Centre \(96KB pdf\)](#)

Annexe C: Extract from minutes

23rd Meeting, 2020 (Session 5), Thursday 3 December 2020

Sexual harassment and sexist behaviour (in private): The Committee considered a note by the clerk and agreed to consult on a change to the Code of Conduct for MSPs.

3rd Meeting, 2021 (Session 5), Thursday 11 February 2021

Code of Conduct Rule Changes (in private): The Committee agreed a draft report and draft Rule changes in relation to Section 7 of the Code of Conduct.

- 1 Written submissions available at: <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/116782.aspx>
- 2 A statistically likely scenario given the over representation of male MSPs. Engender, (2020) Sex and Power in Scotland 2020. Available at: <https://www.engender.org.uk/content/publications/Engenders-Sex-and-Power-2020.pdf>

