

Committee on Scottish Government Handling of Harassment Complaints

Written statement on handling of information and evidence

Introduction

1. The Committee on the Scottish Government Handling of Harassment Complaints (the “Committee”) was established with the following remit for its inquiry:

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”¹ and procedure and actions in relation to the Scottish Ministerial Code.

2. In fulfilling its remit, the Committee’s approach will be as follows:

- * establish where issues arose in the handling of the complaints and the actions in relation to the Scottish Ministerial Code;

- * consider what actions were taken that gave rise to these issues;

- * consider whether the policies are sufficient and fit for purpose or whether it was the application of the processes which gave rise to these issues;

- * consider whether robust governance of policy evaluation and decision-making is in place; and

- * consider whether any lessons could be learned to avoid the issues arising again.

3. Given the content of its remit and the sensitive issues it anticipates exploring, the Committee wishes to set out publicly its approach to the handling and processing of data it receives in the course of its inquiry.

General Considerations

4. For the avoidance of doubt, the Committee wishes to set out the general parameters which apply to the discharge of its remit and the conduct of all participants in its proceedings.

5. The Committee and 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 case of HMA v Alexander Elliot Anderson Salmond².

¹ [Policy on handling of harassment complaints involving current or former ministers](#)

² The order was made under section 11 of the Contempt of Court Act 1981 and has indefinite effect.

6. The Committee will comply with its obligations under GDPR and the ECHR. Only material that is relevant to the inquiry will be published.
7. The Code of Conduct for Committee³ members also regulates the handling of confidential material.
8. The Committee will not revisit the criminal trial nor reinvestigate the substance of the complaints originally made to the Scottish Government.
9. The Committee acknowledges that anyone who made or will make a complaint under the Scottish Government's procedure for handling harassment complaints should expect the procedure to be conducted in a manner that protects confidentiality and does not inhibit complainers from coming forward. In undertaking its inquiry, the Committee will seek to support and not to compromise those principles.

Specific considerations and actions

10. Working within these parameters, the Committee can confirm that the following will be taken into account when processing personal data:
 - Parliamentary committees generally publish all written evidence unless there are legal or other reasons (such as volume or relevance) not to do so. The Committee will take a similar open and transparent approach to other parliamentary committees.
 - However, there are some additional considerations the Committee will make when handling written evidence. The Committee will redact personal or other identifying information in material it publishes where it considers it necessary to do so to comply with the Court Order (particularly in relation to jigsaw identification⁴) and data protection requirements.
 - The Committee will publish documents as packages, after making necessary redactions, rather than individually as they are received, to avoid accidentally increasing the risk of jigsaw identification.
 - Identifying information about individuals below SCS senior civil service grades (including Special Advisers) will not be required from the Scottish Government unless the Committee has established and can show that there is a public interest to do so in an individual instance and if the inquiry's aim can only be achieved if the Committee obtains the identifying information.

³ <https://www.parliament.scot/msps/code-of-conduct-for-msps.aspx>

⁴ Jigsaw identification means enabling others to identify a person by providing sufficient pieces of information about them without revealing the identity outright, including revealing missing puzzle pieces of information that disclose the identity in combination with other information already in the public domain.

- If the Committee seeks evidence directly from individuals, it will do so with due regard to data protection requirements including observing principles of fairness and human rights.
 - The Committee will consider what processing is necessary, proportionate and fair on a case by case basis, according to the individual circumstances of the data subject concerned.
 - The Committee will collect and retain only the minimum amount of personal data needed to fulfil its remit. The Committee is currently undertaking a full data protection impact assessment.
 - The Committee has put in place appropriate measures to keep any information it receives secure with strictly restricted access, under the supervision of the Scottish Parliament's DPO and Information Manager.
 - The Committee will ensure that all participants are aware that the complainers in the criminal trial should not be identified or discussed in public session. This includes the expectation that all witnesses will take their best endeavours to avoid jigsaw identification.
11. In line with the Parliament's Privacy Notice on submitting views to a committee, the Committee may, on occasion, accept written submissions in a non-standard format. Anyone submitting written evidence can request that their evidence be anonymised or that it should be treated as "confidential" (not for publication).
12. The decision on whether the written evidence will be accepted either anonymously or as "confidential" (not for publication) is for the Committee to take. Evidence accepted as "confidential" (not for publication) will not be published online or referenced in any Committee report and access will only be given to relevant SPCB staff and the Committee Members. The Committee will also make a separate assessment on whether publication is compatible with data protection duties.

SGHHC Committee
June 2020