

CULTURE AND BEHAVIOURS IN THE CONTEXT OF HARASSMENT COMPLAINTS: KEY LESSONS AND RECOMMENDED PRACTICE

1. The following lessons form part of our continuous improvement of organisational culture. They rest firmly within the values and principles which guide our ongoing activity:

- the Civil Service values of honesty, integrity (personal, professional and organisational), objectivity and impartiality;
- the values at the heart of the National Performance Framework:
 - treating all our people with kindness, dignity and compassion;
 - respecting the rule of law;
 - acting in an open and transparent way.
- The five core values that underpin the Scottish Government's new vision, 'In the service of Scotland': integrity, inclusivity, collaboration, innovation and kindness;
- ensuring the safety and wellbeing of individuals in the organisation;
- professionalism including good governance and strong risk management.

2. In the context of this work specifically:

- there can never be an excuse for bullying or harassing behaviour, regardless of pressures or working environment or any other context;
- promoting positive working practices and relationships will help prevent inappropriate behaviour - culture requires continued attention and review;
- people should understand and have confidence in the routes available to seek advice or raise an issue, without barriers due to structure or power differentials;
- HR processes need to be visible, accessible and perceived as effective.

3. In our ongoing work we must learn the following lessons and in particular address:

- the need to strengthen the commitment between Ministers and civil servants to prevent inappropriate behaviour, to address any concerns, ensuring that policies and procedures have the acceptance of all parties involved;
 - the manner in which local cultures can develop under pressure, outside the prevailing norms. A shared understanding of the signs that we need to look out for, the importance of early intervention and clear responsibilities for taking action, will help us to work locally to provide extra support;
 - the need to continually promote the importance of speaking up, ensuring concerns are handled promptly and with compassion, and that informal and formal processes are fair – and seen to be fair – to all parties.
4. Through partnership working with the recognised trade unions there are a number of actions in progress, grouped under the following headings:
- promoting positive behaviours;
 - improving confidence in the organisation and its processes;
 - building organisational capability.

PROMOTING POSITIVE BEHAVIOURS

- a) Make more visible an **explicit statement of the behaviors expected** within the SG (including with Ministers).
- b) Leadership teams will reinforce the necessity and the benefit of **creating a safe and supportive environment where people speak up** and – to understand the risks and consequences where they do not.
- c) Leaders will monitor their staff survey reports and undertake further analysis where required to establish where **enhanced monitoring, safeguarding and support** may be beneficial.

IMPROVING CONFIDENCE IN THE ORGANISATION AND ITS PROCESSES

- d) Act on the **outcomes of the externally led SG review** of the procedure for handling harassment complaints involving current or former ministers and its

application, incorporating as appropriate early thinking carried out in initial internal learning from the application of the procedure.

- e) Assess the **risks and issues of defending future judicial reviews** taken against the SG as employer, exploring how to apply these alongside legal colleagues, in reviewing our practice.¹ In doing so, test the risks against our employer duties – including the risk of employment tribunals - and aspirations, to inform the overall Scottish Government position.
- f) Implement relevant recommendations which were identified in the **Fairness at Work (grievance) review** process (paused in March 2019). This will build on feedback from research (including consideration of more recent reports from EHRC, Scottish and UK Parliament, and House of Lords), People Survey data and our approaches to early intervention and wellbeing.
- g) Assess the role of the **confidential sounding board** as one of a range of routes for staff and managers to seek advice when concerns arise. This role should offer a point of contact for impartial, neutral and confidential advice. Appropriate advice, training and support should be put in place.
- h) Review the **Special Advisers Code of conduct** and what can be drawn from this about the expectations of civil servants and protections as employees, for inclusion in induction.

BUILDING ORGANISATIONAL CAPABILITY

- i) All new and returning Ministers should receive **briefing on the Ministerial Code** and guidance on the appropriate engagement and professional relationships between Ministers and civil servants, including Special Advisors.
- j) Through induction and ongoing management development, **raise awareness of the Civil Service Code and the organisational standards of behaviour and expectations on civil servants**, in line with our new vision 'In the

¹ Reference to resources such as [Right First Time: A practical guide for public authorities in Scotland to decision-making and the law - Second edition](#)

service of Scotland' and our underpinning values, to ensure that line managers are confident in addressing and handling concerns.

- k) Put in place focused **training on spotting and handling issues of harassment**. This would be focused on members of staff (such as senior HR managers; the confidential sounding board; and senior managers of higher risk functions) who would have a key role in supporting line managers to ask the right questions, promote early intervention, and provide appropriate support.
- l) Build **complaint investigation capability**, ensuring that all parties – those raising complaints, those subject to them, those applying the policies, and the trade unions - can have confidence in processes to investigate allegations of bullying or harassment.
- m) Set up a **'propriety and ethics' function** with senior civil service leadership to be one of the routes of entry into making a formal complaint. This Unit will also be the interface between the external, independent investigating body and the Scottish Government. This precludes the need for senior staff to hold multiple roles as part of any investigations or inquiries that may occur . The Unit will be able to draw on staff with the necessary skills and not associated with the subject of the complaint. Guidance and support will be available to all parties.