

Review of Scottish Government's harassment claims procedure is published

The government commissioned Laura Dunlop QC to conduct a review of the government's procedure which was at the heart of the Judicial Review raised against the government by former First Minister, Alex Salmond.

The procedure for handling harassment complaints about current or former Ministers had just been introduced in the Scottish Government and was used to investigate complaints against Mr Salmond by two members of staff.

The government lost the judicial review case meaning that it was able to pay costs to Mr Salmond of over half a million pounds. The Scottish Government conceded the case after it admitted that it had applied the procedure wrongly. The investigating officer it appointed, Judith Mackinnon, had been in contact with both complainers at an earlier stage of the complaint proceedings and should not have been appointed to also investigate the matter. After the collapse of the case the government wanted to learn lessons from the failure and this report is part of that process.

Ms Dunlop's review makes a number of recommendations to strengthen the process for handling such complaints in the future, which will be considered along with the forthcoming

report from the Committee on the Scottish Government's Handling of Harassment Complaints and James Hamilton's report. James Hamilton is investigating any breach of the Ministerial Code by the First Minister, Nicola Sturgeon.

Ms Dunlop's recommendations include the following:

- that there should be no time limit in any investigation into complaints of sexual harassment against serving or former Minister, but a period of three years is recommended in other types of complaint
- that it should be considered whether a complainer's wish to avoid police involvement is respected
- that it should be considered if there might only be one process raising a complaint against a minister within Fairness at Work (the overarching employment policy)
- that specific support should be given to a Minister during the investigation
- that it should be decided at the beginning whether the complaint is dealt with under the Ministerial Code or Fairness at Work
- that a screening process should be instigated with legal advice for the person conducting it
- that anyone involved in the investigation should have no prior involvement in the matter or close association with either party during the investigation

Deputy First Minister John Swinney said: "The Scottish Government welcomes this independent review and the constructive, forward-looking recommendations that Laura Dunlop QC has made. We will now work with the Scottish Government Council of Unions, on how these could be implemented, noting that in some instances it will require us working across institutions to find a way forward.

"Our shared priority is to have in place policies and procedures that allow any future complaints to be raised and investigated with confidence. I would reiterate the Scottish

Government's apology to the women who had the courage to make the harassment complaints – they were let down, and it is only right to ensure that lessons are learned for the future.

“Bullying or harassment of any kind is unacceptable and we want staff to feel safe and supported in raising concerns. We will finalise an implementation plan by June which draws on the lessons highlighted by this review, as well as the forthcoming report from SGHHC Committee.

“I am grateful for the attention Laura Dunlop has given to these important matters.”

Laura Dunlop QC's review is published [here](#)

Scottish Conservative leader Douglas Ross said: “It's clear why the SNP Government tried to bury this review late in the day after a lockdown easing statement.

“They have tried to shut down scrutiny throughout this affair and today they sneaked out a report that lays bare 10 glaring flaws in the way the SNP Government handles sexual harassment complaints.

“They completely failed the women at the heart of this scandal by using a catastrophically flawed procedure to investigate Alex Salmond.

“The SNP Government were doomed to lose this case. This review spells out that it had no hope of succeeding because of the contact between civil servants and the complainers.

“If the government had not withheld information from their own lawyers, more than £500,000 would have been saved, and Alex Salmond could have been investigated properly.

“They must abandon this disastrous procedure and build one that actually works. Nicola Sturgeon appears to be retaining this “problematic” procedure to save herself the embarrassment and political damage of admitting they got it badly wrong.

“Until this procedure is fixed, more people can be let down at any moment.”

Scottish Labour deputy leader Jackie Baillie said: “This review by Laura Dunlop QC is welcome and confirms that the Scottish Government’s sexual harassment policy was not fit for purpose.

“What is truly astonishing is that the SNP government did not take this advice when developing the policy, instead of rushing it through. Had they taken professional advice beforehand they might have devised a fairer, more effective policy; they could have avoided an expensive and failed judicial review and – vitally – protected the women involved.

“It is a damning indictment of the SNP and their failure that let women down who complained about the former First Minister.

“The recommendations make it clear that any further complaints of this nature against a former minister must be managed independently and separate from those with any prior interest with any of the parties.

“The Scottish Government must now implement these recommendations, ensure that such an expensive and damaging fiasco will never happen again and that there is a robust policy in place for the future.”