



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# **Committee on the Scottish Government Handling of Harassment Complaints**

**Wednesday 20 February 2019**

**Session 5**



The Scottish Parliament  
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - [www.parliament.scot](http://www.parliament.scot) or by contacting Public Information on 0131 348 5000

---

**Wednesday 20 February 2019**

**CONTENTS**

	<b>Col.</b>
<b>INTERESTS</b> .....	<b>1</b>
<b>CONVENER</b> .....	<b>3</b>
<b>DEPUTY CONVENER</b> .....	<b>5</b>
<b>DECISION ON TAKING BUSINESS IN PRIVATE</b> .....	<b>6</b>
<b>TIMING OF INQUIRY</b> .....	<b>7</b>
<b>APPROACH TO INQUIRY</b> .....	<b>10</b>

---

**COMMITTEE ON THE SCOTTISH GOVERNMENT HANDLING OF HARASSMENT COMPLAINTS**

**1<sup>st</sup> Meeting 2019, Session 5**

**CONVENER**

\*Linda Fabiani (East Kilbride) (SNP)

**DEPUTY CONVENER**

\*Margaret Mitchell (Central Scotland) (Con)

**COMMITTEE MEMBERS**

\*Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP)  
\*Jackie Baillie (Dumbarton) (Lab)  
\*Donald Cameron (Highlands and Islands) (Con)  
\*Alex Cole-Hamilton (Edinburgh Western) (LD)  
\*Angela Constance (Almond Valley) (SNP)  
\*Alison Johnstone (Lothian) (Green)  
\*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

\*attended

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Committee on the Scottish Government Handling of Harassment Complaints

*Wednesday 20 February 2019*

*[Maureen Watt opened the meeting at 12:30]*

#### Interests

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** Good afternoon. I welcome everyone to the first meeting of the Committee on the Scottish Government Handling of Harassment Complaints. I remind everyone to turn off their mobile phones, as they interfere with the sound system. I note that everyone is here and no apologies have been received.

Item 1 is declarations of interests. This is to allow committee members to declare any interests that they have that they think are relevant to the work of the committee. Background information has been provided in the note from the clerk, which is paper SGHHC/S5/01/1.

I think it is best if I go around the table and invite declarations of interests, starting with Alasdair Allan.

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** I have nothing specific to declare, other than to refer people to my entry in the register of members' interests.

**Jackie Baillie (Dumbarton) (Lab):** I have no relevant interests to declare.

**Donald Cameron (Highlands and Islands) (Con):** I have no relevant interests.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I have no relevant interests.

**Angela Constance (Almond Valley) (SNP):** Although this is not a registrable interest, I state for the record—even though it is a well-known fact—that I have served in the Governments of Alex Salmond and Nicola Sturgeon. Therefore, there might be individuals who come into the gaze of this inquiry whom I know or with whom I have worked. I do not consider that an inhibitor to my doing a job on this committee on behalf of Parliament, and to my doing a robust and fair job at that. I just wanted to state the obvious for the record.

**Alison Johnstone (Lothian) (Green):** I have no relevant interests.

**Linda Fabiani (East Kilbride) (SNP):** I have no relevant interests.

**Margaret Mitchell (Central Scotland) (Con):** I have no relevant interests.

**Maureen Watt:** I am in the same position as Angela Constance—although that is not a registrable interest. I have no registrable interests.

## Convener

12:32

**Maureen Watt:** Item 2 is the choosing of a convener of the committee. The procedure is explained to members in paper SGHHC/S5/01/2. As members know, the Parliament has agreed that only members of the Scottish National Party are eligible for nomination as convener of the committee. I invite members to nominate someone from the SNP as convener.

**Jackie Baillie:** Before you do so, I would like to say something about that, briefly. There is absolutely no question in my mind about the personal integrity of the person who is likely to end up being convener. That is quite clear, because I have worked with her for many years. The issue at hand is whether the party of Government should be able to appoint the convener of this committee. I say that because it is clearly unprecedented that a committee of this Parliament is handling complaints against a former First Minister and the actions of the current First Minister, who are the former leader and current leader of the SNP.

I think that that places SNP members in a really quite difficult position, for which they have my sympathy. However, my primary concern is about ensuring transparency in order that the committee can do its work. As we all know, perception is all in politics, and the perception, unfortunately, is that the party of Government is appointing the convener of this committee, which I think is unfortunate. The committee needs to set off on entirely the right foot, without fear or favour. For that reason, I ask the committee to think carefully about whether the SNP should have the convenership of the committee. Failing agreement about that from members—I am conscious that the Parliament has already made a determination on this—I wish my concerns to be recorded.

**Donald Cameron:** I want to put on record my concerns—I speak for Margaret Mitchell in this regard, too—about the fact that the convener of the committee will be selected from the SNP. That has nothing to do with the personal qualities or integrity of Linda Fabiani, an MSP for whom I have the utmost respect; it has to do with the points that Jackie Baillie made. If there was ever a moment for justice to be done, and for it to be seen to be done, this is it.

Ultimately, this is a matter for the SNP members of the committee. In line with the bureau discussions, the vote in the chamber a few weeks ago and the rules of this Parliament, we will not oppose their decision, but I simply ask them—even at this late stage—to reconsider and offer the convenership to another party.

**Alex Cole-Hamilton:** May I add a reflection on the comments of Donald Cameron and Jackie Baillie? My party's position is that we have some sympathy with their remarks, because the optics of the committee being chaired by someone from the Scottish Government party are not great. However, the committee will undergo a level of scrutiny that perhaps no previous committee in Parliament has been afforded, so we have to trust in the probity of our members and recognise that they will perform their function with diligence and humanity. I also recognise that the matter has been settled by a vote in Parliament, so although I share some of the concerns that have been raised, I will support the nomination of an SNP convener if the SNP members decide that that is the best way forward.

**Alison Johnstone:** I would just like to point out that the Parliamentary Bureau agreed the remit and membership of the committee, including the convener, and that Parliament subsequently voted on the matter. I put it on the record that the issue was not opposed when it was first raised to the bureau. I have every confidence in our committee's doing its important work.

**Maureen Watt:** Does anyone else want to comment?

Okay. What has been said is now on the record; as members have said, the matter was discussed fully at the meeting of the bureau, which came to a decision and lodged a motion that the Parliament agreed to. Questions about convenerships have arisen before, because of how the d'Hondt method works, but they have always gone to a member of the party whose turn it was. We all recognise that this committee might be unique in the lifetime of this Parliament, so it is good that that has been put on the record.

I invite members to nominate a member from the SNP as convener.

**Dr Allan:** I nominate Linda Fabiani.

**Maureen Watt:** As no seconder is required, do we agree to choose Linda Fabiani as our convener?

**Members indicated agreement.**

*Linda Fabiani was chosen as convener.*

**Maureen Watt:** Congratulations, Linda, on your appointment. I willingly hand the chair over to you.

## Deputy Convener

12:37

**The Convener (Linda Fabiani):** Thank you, everyone. Item 3 on the agenda is the appointment of the deputy convener. The Parliament has agreed that only members of the Scottish Conservative and Unionist party are eligible for nomination as deputy convener of this committee.

I invite members to nominate a member from the Scottish Conservatives as deputy convener.

**Donald Cameron:** I nominate Margaret Mitchell.

**The Convener:** As no seconder is required, do we agree to choose Margaret Mitchell as our deputy convener?

**Members indicated agreement.**

*Margaret Mitchell was chosen as deputy convener.*

**The Convener:** Congratulations, Margaret.

**Margaret Mitchell:** Thank you, convener.

## Decision on Taking Business in Private

12:38

**The Convener:** Item 4 on the agenda is a decision on taking business in private. As convener, I intend to be as open and transparent as possible, but we have to recognise the need to be mindful of on-going court proceedings and of what is said in public.

I propose that we discuss in public the timing of the committee's inquiry, as outlined in the paper from the clerk, but that the committee should go into private session for a short time to discuss in more detail how we might wish to approach the inquiry overall. That discussion will include the dates and times of future meetings, because everyone has other commitments.

I intend that the committee should then go back into public session, so that any decisions that we take in the private discussion can be put on the record, as well as in the minutes of the meeting.

Do members agree to taking item 6, on the committee's approach to the inquiry, in private?

**Members indicated agreement.**

## Timing of Inquiry

12:40

**The Convener:** We move to agenda item 5, which is consideration of the timing of the inquiry. The committee has been established to undertake a specific piece of work. It is worth putting on the record our full remit, which is

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

Everybody has read the remit and the papers that have been put forward on the timing of the inquiry. The Parliamentary Bureau agreed that the inquiry should not impede, interfere with or replicate on-going investigations, nor should it prejudice any subsequent legal proceedings. We all know that court proceedings are now active, and the Parliament’s sub judice rule now applies.

I invite comments, discussion and questions from committee members.

**Alex Cole-Hamilton:** I understand the collective will of the committee and the committee’s understanding of the rules around sub judice that necessitate our perhaps suspending our formal hearings in this inquiry until the conclusion of legal proceedings.

However, there are aspects of this case that are not sub judice, which pertain to the complaints procedure that predated the current procedure. It might be helpful for us to receive formal or written briefings on how the procedure was meant to operate in best practice, just so that we can familiarise ourselves with the landscape. Although I would support a suspension of formal hearings, we could be furnished with some background reading or briefing that would allow us that understanding of the landscape, without prejudicing any proceedings.

**Alison Johnstone:** I wonder whether it is possible for the committee to write to the Scottish Government and ask for timings with regard to the other investigations that we are waiting to learn more about—that is, the inquiry in relation to the ministerial code self-referral and the internal review—so that we are in a better position to understand when they might be complete.

**Margaret Mitchell:** There is a danger that this committee might be suspended until sub judice rules are looked at. I agree with Alex Cole-Hamilton that there is useful information that can be gathered just now that will help our investigation and our inquiry, when we take it up

formally. It is all about complaints, to an extent; for example, looking back at how complaints have been handled since the inception of the Parliament would provide useful background information and perhaps more detail that we can hammer out in private. For the record, I do not think that we need to stand still just now, because there is useful work that can be done that will aid our inquiry in the longer term.

**Donald Cameron:** On a slightly different point, which relates to timing, I have no issue at all with the substantial point about delaying until proceedings have finished, but I wonder whether there is a mechanism whereby either formally or informally the committee might note where progress stands or be convened very briefly—every three months, say—so that we are up to date and so that we do not postpone meetings indefinitely. That is simply an observation that I wanted to make.

12:45

**Angela Constance:** Following on from Mr Cameron’s point, I would certainly be sympathetic to the committee not postponing indefinitely and coming together periodically. I would also be interested in advice on two further points.

Like most MSPs, I am perfectly aware of the sub judice rules that are in our standing orders. I am well aware of the Presiding Officer’s recent statement in Parliament and I am also aware of the Parliamentary Bureau’s recommendation that the inquiry should not begin until legal proceedings have concluded. However, it is important for the committee to receive its own advice on that point. As a non-lawyer, I understand that the sub judice rules might inhibit us from doing aspects of the work that we will definitely want to do for our inquiry, but I would appreciate advice on that.

On Mr Cole-Hamilton’s point, we should consider whether sensible background work could be done, for our learning, while the legal proceedings progress. That might save time in the future.

**Jackie Baillie:** I agree that the committee can do nothing that would run the risk of interfering with what goes on in court—that is for the sake of the defendant and the prosecution—so I oppose our doing anything formal now. However, there is an opportunity for informal evidence gathering that would pave the way for future committee meetings, so we should meet from time to time while the legal proceedings continue.

We should not wait for the outcome of the Scottish Government’s review or for the outcome of the First Minister’s self-referral under the Scottish ministerial code. Parliament has given the committee a remit and we can work out the



logistics of things happening at the same time. We should delay for no reason other than live legal proceedings.

**Maureen Watt:** I am a bit concerned by the prospect of taking informal evidence, which might contravene the sub judice rules. However, it is important to do anything that we can to make ourselves more aware of the background. If we can read stuff from the Standards, Procedures and Public Appointments Committee or about previous actions that might be relevant we should do that so that, when we convene after the legal proceedings have concluded, we are prepared and can hit the ground running.

**The Convener:** Are Maureen Watt and Jackie Baillie on the same line of thought?

**Jackie Baillie:** We are on the same page—perhaps I used different language from Maureen Watt, but we are in entirely the same place.

**The Convener:** We must all be careful about the use of language, which is important.

**Alex Cole-Hamilton:** On the same issue, I understand entirely Maureen Watt's point, but I am anxious about our going off individually to do private study. I would prefer us to all have the same information and to be on the same page when we reconvene.

**The Convener:** Everything that has been said reflects the thoughts that I have had. I suggest that we take on board all the points with our clerks and put them together. Margaret Mitchell and I will look at that and circulate to the committee a view on how to proceed that sets out what background information we can gather, what will be most useful for us and whether it would be worth while to set a regular timetable for coming together as a committee to review progress. Is that acceptable to everyone?

**Members indicated agreement.**

12:49

*Meeting continued in private.*

13:20

*Meeting continued in public.*

## **Approach to Inquiry**

**The Convener:** Item 7 is about the committee's approach to our inquiry. During its private session, the committee decided to note the sub judice requirement that is relevant to the inquiry and to have an initial meeting for background briefings in approximately two weeks' time. There was also agreement to write to the Scottish Government about the expectation of full co-operation with regard to information being passed to the committee, with relevant documentation being retained by the Government for transmission to the committee when requested.

I thank everyone for attending this first meeting. The date of the next meeting will be relayed as quickly as possible.

*Meeting closed at 13:20.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

---

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

---

All documents are available on  
the Scottish Parliament website at:

[www.parliament.scot](http://www.parliament.scot)

Information on non-endorsed print suppliers  
is available here:

[www.parliament.scot/documents](http://www.parliament.scot/documents)

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

---



The Scottish Parliament  
Pàrlamaid na h-Alba