



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 4 March 2020

Session 5



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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
8th Meeting 2020, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Sarah Boyack (Lothian) (Lab)

COMMITTEE MEMBERS

Jeremy Balfour (Lothian) (Con)

*Annabelle Ewing (Cowdenbeath) (SNP)

*Kenneth Gibson (Cunninghame North) (SNP)

*Graham Simpson (Central Scotland) (Con)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Caroline Anderson (Commissioner for Ethical Standards in Public Life in Scotland)

Martin Campbell (Commissioner for Ethical Standards in Public Life in Scotland)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament
Local Government and
Communities Committee

Wednesday 4 March 2020

[The Convener opened the meeting at 11:00]

Decision on Taking Business in
Private

The Convener (James Dornan): Good morning, and welcome to the eighth meeting in 2020 of the Local Government and Communities Committee. I remind everyone to turn off their mobile phones. We have received apologies from Jeremy Balfour.

Agenda item 1 is consideration of whether to take in private agenda item 4, which is consideration of today's evidence from the Commissioner for Ethical Standards in Public Life in Scotland. Do members agree to take item 4 in private?

Members *indicated agreement.*

“Ethical Standards
Commissioner Annual Report
and Accounts 2018-19”

The Convener: Under agenda item 2, the committee will take evidence on the Commissioner for Ethical Standards in Public Life in Scotland's annual report and accounts. I welcome Caroline Anderson, the commissioner; Ian Bruce, public appointments manager; and Martin Campbell, director of investigations and solicitor to the commissioner. I invite the commissioner to make some brief opening remarks.

Caroline Anderson (Commissioner for Ethical Standards in Public Life in Scotland): Thank you for the opportunity to present evidence to the committee today. As it is my first such evidence session, I would like to open with a short introductory statement outlining the steps that I have taken in relation to complaints handling over the past 10 months while I have been in post as commissioner. That more recent information will give the committee an up-to-date picture, as the annual report relates to 2018-19, before I was appointed. I am, of course, ready to answer questions on the annual report to the best of my ability. I also have senior members of my team here to address any points of detail.

I am a qualified chartered accountant with expertise in regulation and compliance, which has been developed over three decades, spanning public and private sector roles in professional services and financial services, both in local jurisdictions and internationally.

When I took up office on 1 April 2019, I reviewed operations and found that we were significantly in arrears in relation to councillor complaints. The outstanding investigation legacy dated back to August 2018, which was of great concern to me. Having held many quasi-judicial and determinative roles, including disciplinary tribunal and investigative roles focused on codes of conduct, I have extensive experience in the area. That experience makes me acutely aware of the negative impact of protracted investigation completion times on the elected representatives involved.

As at 1 April 2019, that legacy equated to the average number of reports submitted to the Standards Commission for Scotland in an 18-month period. I have a small office and there was a critical level of vacant posts when I took over. The need to resolve the situation was made more pressing by the upcoming expansion of investigation work to include sexual harassment and inappropriate behaviour complaints, and by the overall backdrop of rising complaint volumes. I had to implement a recovery plan quickly to avoid

further delays and to secure greater effectiveness and efficiency in complaints handling, in order to be ready for increased demand.

Previously, my office had predominantly used home-based variable-hours contractors as investigators, each working an average of only 10 hours per week. With full Scottish Parliamentary Corporate Body approval, I moved quickly to recruit full-time, on-site investigators, who have come highly recommended from former Scottish public sector employers and international and local law firms. They included qualified lawyers and experienced investigators with outstanding skills and qualifications. My new senior investigating officer, Mr Campbell, took up post in June 2019, and the other new full-time investigators took up post in December 2019. That team is moving quickly through investigations, producing high-calibre work.

In moving to the use of full-time investigators, it has been possible to double the annual working hours available to more effectively service complaints investigations. In addition, complainers and respondents are now benefiting from having a dedicated full-time on-site investigator to service complaints. We have already received notable positive feedback on that greatly enhanced service. Those changes address the long-standing issue of the length of time taken to complete investigations, as raised by various stakeholders over the years.

I am also aware that my office's budget has come under scrutiny by the committee in past years. The move to using full-time investigators has doubled the available investigation hours while reducing salary costs by £75,000. The new salaries are in line with a regrading exercise that was carried out with the support of the SPCB. Former investigators had preserved rights from previous public sector posts, with an associated high price tag. I apologise that, due to human resources and data protection issues concerning individuals in a small office, I cannot go into much greater detail.

As well as putting the new staff in place, I have overseen work to put into operation the case management system, which has been delayed for many years. In addition, all information technology hardware and software have been replaced as required, creating a robust platform from which to deliver a newly effective and efficient complaints-handling approach.

Since 1 April 2019, incoming complaints have increased significantly. As at 31 December 2019, councillor complaints were up by more than 90 per cent pro rata, with councillor complaint case numbers up by 50 per cent. MSP complaints also increased substantially, with cases up approximately 100 per cent pro rata on the

previous period. Despite the increase and the fact that new IOs have been in post only since December, MSP complaints are up to date, and the vast majority of councillor complaints have been assessed through to the past few weeks' intake.

To conclude my coverage of complaints investigation, I wish to alert members to the heightened complexity and gravitas of the incoming complaints that we are handling. For the first time since the relevant legislation was enacted two decades ago, my office has, over the past six months, commenced four cases that required an interim report, with the potential suspension of the councillor concerned, pending full investigation. That represents a significant escalation in the legal complexity and profile of our casework.

Thank you for the opportunity to make those opening remarks. I look forward to answering your questions, and I welcome any feedback on my strategic plan, which covers all functions of my office for the rest of my tenure.

The Convener: Thank you for that introduction. You spoke about the fact that there was a backlog when you were appointed and that you have changed practices. Can you give us an update on the current level of the backlog in the case load?

Caroline Anderson: At this point, we have assessed 95 per cent of all incoming complaints. There are 270 complaints, 95 per cent of which have been assessed, with the rest being actively worked on. Therefore, the assessments are up to date. On the investigations, to manage both the backlog and the high volume of new incoming complaints, I have dealt with those in different streams. I have a stream of high-priority complex casework, which Mr Campbell handles, and then I have the balance of the casework. In total, that accounts for about 20 live cases currently.

The Convener: Are the different ways that you have handled the casework part of refreshing the case system?

Caroline Anderson: Yes, by streaming it, I have taken much more control of the body of complaints. Would you like me to talk through the approach that I am taking to—

The Convener: No, not in great detail.

Caroline Anderson: Through the streaming of the casework, I am able to prioritise. Generally, we are working through the cases—both legacy cases and newly received cases since 1 April—in chronological order, but a new priority matter can come up any day. Therefore, in the streams, and through daily meetings with the investigating officers, I can control what is being worked on and

change the priority and allocation at any given moment.

The Convener: Do your staff find that to be more flexible?

Caroline Anderson: Absolutely. Having everyone on-site is very flexible.

The Convener: How much difference has it made to have updated IT systems and a full complement of staff?

Caroline Anderson: The situation is incomparable, really. It is the staff who make the difference—

The Convener: Is that the main driver of your managing to reduce the backlog by so much?

Caroline Anderson: The main driver is having the staff to close the backlog and also to deal with the higher volume of incoming complaints, which, as I said, has nearly doubled.

The Convener: My colleagues will ask you about the complaints system. I think that Sarah Boyack wants to come in first.

Sarah Boyack (Lothian) (Lab): Thank you, convener.

Good morning, commissioner. At the end of your opening remarks, you commented on the complexity of the cases that you are receiving, in addition to quite a significant increase in complaints about councillors. You referred to the higher numbers and the gravitas of those complaints. Do you want to say a bit about that?

Caroline Anderson: Yes. You will appreciate that councillors are involved in wide-ranging and complex government business and that, therefore, the complaints reflect that degree of complexity. However, anecdotally, I would say that the complexity of complaints involving multiple issues is increasing. We receive complaints that involve overlapping legal issues and legal cases, and complaints with a deluge of documentation attached—sometimes in excess of 1,000 pages.

The member alluded to the interim suspension report, which are linked to matters that are of great public interest and potentially require the suspension of a member—that reflects the gravitas involved. Again, with a case in which there is great public interest, there is also great social media and press attention, which then ripples out into the complexity of handling the entire matter. That is the landscape that we are working in, and the volume of complaints coming through the door had almost doubled as at 31 December 2019.

Sarah Boyack: That is quite a striking statistic. It is also quite interesting to hear about the increasingly complicated nature of complaints.

Caroline Anderson: Yes. I think that that complexity is the key. The complaint numbers could be up by another 100 when we go back to the office, but if a case relates to a single, simple matter, that does not add so much work, whereas one that involves multiple issues and a huge document load is a big job.

The Convener: Thank you. Graham Simpson wants to come in.

Graham Simpson (Central Scotland) (Con): Thanks, convener. I want to follow up on that, as there is some really interesting stuff there. Why has the volume gone up so much, and why are you getting increasingly complex cases? It is incredible that you get complaints with 1,000 pages of documentation.

Caroline Anderson: I have not had the opportunity to analyse why; my job is more to respond. I have identified that I cannot expect complainers to be experts on codes of conduct and legislation. My means of interacting with them is the complaint form, so I have embarked upon a project to refresh the complaint form in order to walk the complainer through the different points that would be potentially relevant to them in putting together a complaint. I hope that that will manage expectations and perhaps reduce the number of complaints coming to us, as they fall away once they undergo assessment. I am also considering limiting the number of pages of documentation that are initially submitted with a complaint, in order to make them relevant and to stop them taking up lots of staff time at that initial point. Obviously, we are open to accepting whatever documentation it takes once we have looked at the complaint.

Graham Simpson: I do not know anyone who has time to put together 1,000 pages. What is the nature of those complaints? Where are they coming from? Are they coming from professional people, or are fellow councillors complaining? I cannot imagine any of them having time to put together 1,000 pages.

11:15

Caroline Anderson: I apologise; you see me struggling because I am obviously under a burden of confidentiality, so I am being very careful not to talk about anything that is still live. Often, we get caught up in complex situations when complainers have perhaps been to other offices or used other complaints services and are unhappy with the outcome, and they then bring to us a huge volume of material from the back and forth that they have had with another body. That is one possible situation that can shape a complaint into a very large one.

Graham Simpson: I am not asking you to tell us about individual cases; we cannot do that. I am trying to get a feel for the nature of the complaints. Complaints have doubled, but are complaints of a particular nature increasing? Perhaps it is to do with sexual harassment cases.

Caroline Anderson: We have had some sexual harassment cases since I took up office, but I could not say that that is in any way part of that volume increase. I would be happy to provide members with a breakdown once we get to the accounting year end, which is only a few weeks away. I would be happy to put together a full breakdown of the nature of the complaints involved.

My feeling is that there are lots of respect-related complaints, which often come from social media and the press, where there has been a political comment or debate of some kind that has caused a complainer to think that the line of respect has been crossed. However, often, on assessment, we will find that, where there was a political nexus to that matter, it will be covered by article 10 of the European convention on human rights and that, therefore, the complaint will fall away. In my complaint form, I hope to use user-friendly plain English to explain that, so that we manage expectations.

Social media and press coverage and respect and courtesy all work together to create a volume of complaints. If I may, I will turn to my senior investigator. Is there any other body of complaints that you feel that it would be worth mentioning, Martin?

Martin Campbell (Commissioner for Ethical Standards in Public Life in Scotland): I reiterate what the commissioner has said. There is a wide variety of complaints. Speaking anecdotally, from being on the ground and looking at the cases, I would say that dignity and respect seem to account for a large chunk of the complaints. A lot of those are generated from social media. Going back to the question about who is making the complaints, I think that the accounts show that the vast majority come from members of the public, rather than being councillor-on-councillor or MSP-on-MSP complaints. We do not harvest data about the background of those members of the public to identify that any further.

Graham Simpson: Therefore, you do not know whether someone is being prodded or prompted to make the complaint, which does happen.

Caroline Anderson: Motivation is not something that is covered in the code.

Graham Simpson: I might ask you about disrespect later. Do you want to move on, convener?

The Convener: Thank you. Andy Wightman is next.

Andy Wightman (Lothian) (Green): Thank you, convener.

Commissioner, to pick up on what you said earlier about the volume of complaints doubling, can you confirm that that does not mean that the volume of those complained about has doubled? You could have large numbers of complaints about one person.

Caroline Anderson: Yes—you are quite right. On the number of cases, perhaps the more illuminating figure is that, as at 31 December 2019, the number of cases had gone up by 50 per cent, which better reflects the level of workload, let us say, and the number of councillors being complained about. That is pro rata, of course. When we get to the year end, that might have fallen away a bit. It is impossible to say until we are there.

Andy Wightman: Thanks. Last year, when I asked your predecessor, Mr Thomson, whether he had received any complaints in relation to sexual harassment, he said that there had been none. That surprised me somewhat, because there were surveys at the time, and there have been surveys since, showing that incidents are taking place within councils. Have you had any complaints in relation to sexual harassment, and, if so, how many?

Caroline Anderson: That there have been a couple is all I would be able to say at this point—they certainly fall under that heading. Therefore, it has not been the large increase that was perhaps anticipated from the survey of staff at the Parliament.

Andy Wightman: The survey I am referring to was of council staff. Is it the case that you have no role in promoting the fact that your office exists and is there to receive complaints of this nature or in promoting your willingness to investigate complaints? Is that something that you can do?

Caroline Anderson: I am not aware of any restriction on self-promotion. We do not take complaints ourselves; we accept complaints that come in. There seems to be some confusion out there about terms such as “ethics watchdog” and about the nature of the regulatory mechanism and what I do, as opposed to the tribunal body to which I submit my breach reports. I am not aware of anything in the legislation to stop me promoting myself, other than budget, I suppose. Mr Campbell can confirm whether that is the case.

Martin Campbell: Yes, it is.

Caroline Anderson: The website has the information, but one thing that I feel is missing from the website is a casebook that reflects on

learning from the cases that I have assessed and reported on. Because I do not have a particular power to publish, that has not been done, particularly given issues such as the general data protection regulation and so on that have come up over the past few years. I see that my equivalents in other jurisdictions are able to put together a casebook in which they share their learning from cases. That would be a way to support and assist councillors in considering their position vis-à-vis various behaviours. That is something that I would like to do that might promote the office in the manner you refer to.

Andy Wightman: That is interesting. I confess that I often have to remind myself about the various offices and their different roles. It is a slightly confusing landscape.

I have been speaking to councillors, particularly female councillors who have been victims of sexual harassment—quite serious cases—and I have asked them whether they were aware of the complaints mechanism that is available to them. Without exception, they were not. I am not blaming them for that, and perhaps they would not want to complain anyway, but some work might need to be done, particularly within councils and among councillors to make people aware that the code of conduct means that councillors can be held to account for any matter.

Caroline Anderson: We have recently been reviewing the revised code of conduct, and I see that it now specifically refers to sexual harassment. I presume that councils will be doing some training on that. The Standards Commission for Scotland also has a role in providing training. Therefore, through those two mechanisms, one would hope that councillors will be better advised on what can and cannot happen in terms of complaints arising from the code.

Andy Wightman: One would hope so; let us see. A spokeswoman for you was quoted in *The Press and Journal* on 8 February in an article about Councillor Alan Donnelly. The article was about the fact that a large number of complaints had come in, and the spokeswoman for your office said:

“Being a very small organisation with limited resources, the commissioner may, on occasion, administer a case in a given manner with a view to optimising administrative efficacy.”

Can you explain what you mean by that?

Caroline Anderson: Absolutely. Thank you for the question. I can take you through the process, but I cannot talk about a specific case. All complaints are logged and analysed. If analysis reveals many identical complaints, they are gathered up into one case. Further complaints continue to be logged and analysed, to see

whether the matters that have been complained about are identical or are broadening out in some way, or other concerns are being added, in which case the matter that we are considering would be extended. That is an on-going process. We do not know when the complaints are finished, so they keep coming in and we keep logging and analysing them.

However, the office is very small. I have fewer than 10 full-time-equivalent staff, and we handle multiple statutory functions. Therefore, obviously, I have to look at how we administer any given matter, with a view to achieving best value. When we have a number of identical complaints, I may use my discretion to consider how we proceed, because that means that I can progress an investigation faster and act on the matter that all of the complainers are complaining about.

On reflection, the phrasing that we used in the communication concerned was unfortunate. The word “accept” was unhelpful and was an unfortunate turn of phrase; I can confirm that all the complaints were logged and analysed. If any more were to come in now, the same would be the case. We assured all complainers that the matter was being acted on.

Andy Wightman: To be clear, section 9 of the Ethical Standards in Public Life etc (Scotland) Act 2000 says:

“It is the duty of the Commissioner ... to investigate and report to the Commission on cases in which a councillor or member of a devolved public body has, might have or is alleged to have contravened the councillors’ or, as the case may be, the members’ code.”

Therefore, your duty is to investigate whether there has been a breach of the code in relation to, for example, a councillor. If 5,000 complaints come in, your duty is to investigate the substantive breaches by that councillor that are being drawn to your attention.

Caroline Anderson: That is correct.

Andy Wightman: Therefore, you are saying that, if someone were to make a complaint four weeks after you received the initial one and it was identical, you would merely tell the complainant that their complaint is already being handled.

Caroline Anderson: Yes.

Andy Wightman: If you have large numbers of complaints—let us say 500 or 1,000—once you have resolved the complaint, or once you have done your job, would you then contact all the complainers to notify them?

Caroline Anderson: Again, that is the point of the communication that we are discussing. If there is such a volume of complainers, there will not be just one communication: there will be telephone calls and emails asking for updates. Perhaps clips

from the media will be sent in and so on. There can be a barrage of incoming traffic that one needs to handle. Therefore, the approach that we referred to in the article was a means of reducing the volume of traffic and allowing us to get on with handling the complaint. In that way, complainant numbers are reduced. The matter goes to the Standards Commission for Scotland as a breach, which has the power to publish: the matter is heard and is in the public domain. That is how all the complainers—thousands, potentially—can hear about the outcome.

Andy Wightman: Therefore, the answer is no. Thank you.

The Convener: Before I move on to Annabelle Ewing, I wish to come in on the back of that. Is that different to the way that the previous commissioner worked?

Caroline Anderson: I honestly do not know. Identical complaints are added together in one case—that is the same—but I do not know whether the administration side has altered. The computer system and the allocation of case numbers are ways to deal with administration, and to control it so that it does not spin out.

The Convener: I get that. Does that mean that it would have had no bearing on the fact that you managed to close the backlog of cases that were left hanging over from the previous commissioner?

Caroline Anderson: I am talking about the volume of new complaints.

The Convener: Are there occasionally times when you might not deal with a case because you are too busy?

Caroline Anderson: No. Cases are logged and put in a queue as they come in, and we work through them in chronological order unless a priority matter comes in and moves them. For example, a conflict of interests could mean that the next available staff member could not work on a particular complaint. We consider all such things.

I do not see how it would be possible that we would not deal with a case. They come in through an automated system.

The Convener: Yes. However, there is dealing with things and there is dealing with things. You can either dig into something or you can give it a quick glance over.

The statement that Andy Wightman mentioned says that you will

“administer a case in a given manner with a view to optimising administrative efficacy”.

That statement suggests that in some cases you will not take the time to do what you would do in others.

Caroline Anderson: I will explain that. That is about administration of the case, which is completely different to assessment. You are conflating the two words.

Administration is sending emails, taking phone calls, looking at the new tweets and so on that might be sent in by 100, 200 or 500 people—whatever the number of complainers is. That is completely different to the assessment process.

I have put a detailed assessment process in place, including a checklist for the assessment process. We have trained the investigation team in use of that assessment process. At our daily meetings, we discuss assessments in order to ensure that we reach the right outcome. A robust audit trail is produced.

The Convener: I get all that, but—

Caroline Anderson: The answer is no. We definitely do not do what you asked about.

The Convener: If you tell people that there is no point in contacting you about sexual harassment by a councillor because you are already dealing with it, there is an opportunity for you to miss out on important information.

Caroline Anderson: There is not, because the process happens the other way round. As I said, the case is still logged and analysed to see whether different concerns are being raised, or are the same as the original ones.

The Convener: How do you explain the fact that you said that you were

“unable to accept any further complaints”

on that matter?

Caroline Anderson: As I said, that was an unfortunate turn of phrase that did not reflect the fact that every complaint is logged and analysed to see whether it is broadening out, or new concerns have been raised. That is what I have been trying to explain. I can put your mind at rest on that, convener.

The Convener: Right. That is great. Thank you very much. I will move on to another question.

Annabelle Ewing (Cowdenbeath) (SNP): Councillors’ failure to declare or register interests is an area in which complaints and breaches are often found. We discussed that important matter at an evidence session with the previous commissioner. At that time, we wondered what guidance was available for councillors, and what proactive approaches councils took to make councillors aware of what the guidance actually means.

In your term of office thus far, what evidence have you come across of councils seeking to get to grips with that and ensuring that their councillors are advised so that they can properly declare or register an interests?

Caroline Anderson: I deal with that issue when it comes to me in the form of a complaint. The declaration or registration of interests by councillors has been simplified in the revised code. The coverage is reduced and simplified, which I hope will give councillors clearer instructions on how to proceed in what is definitely an important area.

However, I question the proportionality of a low-level situation in which a registration or declaration of an interest has been missed by a councillor, but nobody has been advantaged or disadvantaged through what is obviously an inadvertent breach, such as a councillor forgetting that they have a share in a dormant company—that example from my predecessor stands—being turned into a breach report and elevated to national level.

I am frustrated that I am unable to simply write a letter to the council and councillor concerned to ask for the situation to be remedied, and to remind them of best practice to ensure code compliance in the future. That approach to the matter would offer best value and be proportionate in terms of the public interest. We could have very simple mechanisms to ensure that it was made known to those involved that such advice had been given to the councillor concerned. Should a change in powers be possible, I would like to see the introduction of that approach. The councillors are busy and when there is an inadvertent slip that hurts nobody, that would be a way forward.

Annabelle Ewing: That is very interesting and I hope that local authorities are listening to your comments. However, in circumstances in which complaints about conduct involve a serious breach, is the trend decreasing, flatlining or increasing?

Caroline Anderson: Anecdotally, I suggest that the trend remains similar, but this is my first year in post, so it is difficult for me to compare and contrast. Again, I offer to write to members with statistics breaking down the nature of complaints at the end of the accounting year, which will give you a better feel for trends.

Annabelle Ewing: That would be very helpful.

Caroline Anderson: Certainly, if a breach is found, the details are contained within a breach report, which is then submitted to the tribunal.

Annabelle Ewing: Such breaches will not always be exclusively linked to a failure to understand guidance, but in instances that relate to a genuine failure to do so, it is incumbent on

councils to ensure that there is a duty of care to their councillors, in terms of the reasonable measures that can be taken. It is important to keep an eye on that matter.

On the draft code of conduct, we had an update from the minister yesterday to advise us that the working group hopes to publish the code in April for a 12-week consultation. It seems that you have had the opportunity to feed in your views. Are you able to share highlights of what you hope to see in the code?

Caroline Anderson: My colleague Martin Campbell has been involved in the review of the revised code of conduct, so I will let him respond.

Martin Campbell: We were involved in the process and engaged with monitoring officers and other stakeholders on particular parts of the code. We have also given our comments on the final draft. It is worth recognising that the code is a product of many different stakeholders, and we do not have the final say on it.

One of the main highlights is that readability has been greatly improved. There has been a change in language to use of the first person: “I will”. That is important in fostering a culture in which people take personal ownership of the code and their conduct.

On the issue that Annabelle Ewing mentioned previously, there has been real simplification of the declaration of interests section, in which it previously appeared that there were subtle rewordings of the same test almost half a dozen times. That section has been stripped back, which should help with the issue that you have identified.

Annabelle Ewing: Do you feel optimistic that the key points that you were hoping would be covered will be reflected in the text that will be put out to consultation?

Martin Campbell: We have offered specific comments on particular parts of the code. I repeat that although we do not have the final say, our voice has been heard in the process.

Annabelle Ewing: That is excellent. We will wait and see what the text reveals.

Sarah Boyack: In section 1 of the annual report, there is a table about the nature of complaints. One of the types of complaint that stands out is about misconduct on individual planning applications—there are quite a large number of those. Can you give us a sense of whether the amount of such complaints has grown or stabilised compared to last year? I understand that last year, in feedback to the committee, planning was identified as the biggest single source of complaints. We passed the Planning (Scotland) Act 2019 last year; it was quite lengthy.

Has it made any difference to the nature of complaints?

Caroline Anderson: Anecdotally, I would not say that planning is the biggest single source of complaints but I want to check that with Mr Campbell.

Martin Campbell: The table showing the comparison with the previous year shows that there has been a move towards complaints related to respect and courtesy, while planning has taken a back seat.

Sarah Boyack: There is a lower proportion of such complaints this year, but has the number also gone down?

Martin Campbell: I do not have the numbers to hand, but I can get back to the committee on that.

Graham Simpson: I want to go back to the issue of disrespect, which the committee has raised previously. I will use the same example as the one that I gave last year.

For example, I could say something about Mr Gibson, who is sitting at the end there, to which he takes umbrage—he is not the type to take umbrage, but let us say that he did—even though I had meant no harm by what I said. He could then run off to you and make a complaint about me because he had a particularly thin skin—he does not. Would not that kind of complaint be a waste of everyone's time?

Caroline Anderson: I am trying to capture such things in my new filtered complaint form, so that I can advise that, in general, if there was a political nexus in the communication between the two people involved, the views that were shared would come under article 10 of the European convention on human rights and the complaint would fall. I am trying to create some sort of filtering mechanism, but we will see how well it works—no doubt it will need some tweaks as we go along. The form is the obvious place for such a filter and for me to engage with complainers and manage their expectations.

Your colleague might find a comment very offensive and put in a complaint about it, but the form will let him know that the comment has a political nexus and will likely fall, if it does not stray into other areas in which coverage under article 10 would not apply. I do not want the complaint form to be 30 pages long, so we are trying to cut to the chase and to filter out the main areas that should be filtered out.

Graham Simpson: Are you trying to weed out that type of thing?

Caroline Anderson: We do not do ourselves any favours if we accept complaints that are likely to fall away. The complainers have expectations

and they will be let down if that is the case. I would rather engage with them at an early stage to establish that, rather than them investing time and effort in putting together the package for a complaint, with supporting documentation and so on. It is better to engage with them initially, through the form.

Graham Simpson: That sounds sensible. Are you seeing an upsurge in complaints about comments that people are making on social media?

11:45

Caroline Anderson: That is a constant in our incoming complaints. Events can occur that bring in a large volume of such complaints, and at other times only one or two people pick up a tweet or a comment. I do not expect any change in the revised code of conduct around such material. The main question in investigating such complaints is always whether someone was acting, or was perceived to be acting, as a councillor. As far as I can see, there is no change to the code in that respect.

I can only imagine that the amount of such complaints will grow—social media are here to stay. They are high-risk platforms, but elected representatives have to use them. That being the case, I have identified social media in the strategic plan and we are looking to invest in some training to assist us.

Graham Simpson: You mentioned that you would like to be able to issue a simple advice letter to councillors who have inadvertently got something wrong. That sounds sensible to me. It would need a change to the rules around your job. Have you had any discussions with ministers on that?

Caroline Anderson: We have not had discussions with ministers on that. My colleague kindly worked up a paper on the issue; I would be happy to approach ministers about having a conversation about it.

Graham Simpson: Whom was the paper for?

Caroline Anderson: It was a paper considering the concept and advancing it to any interested party. I wanted to see whether anything came out of the revised code of conduct that might have an impact on that, and then take it from there.

Graham Simpson: The code is for councillors and how they behave, but the advice letter would be about what steps you would take.

Caroline Anderson: That is true. It is a while since I looked at the paper. Would we need a legislative change to enact that?

Martin Campbell: The context of the paper was that the Standards Commission was looking at reducing the number of public hearings for what it classes as technical breaches. We put together a paper to expand on that, suggesting that the power could be given to us to decide whether there has been a contravention and what sanction would be appropriate in such cases, given that we have all the evidence. The suggestion in the paper was that the Standards Commission would act as a check and balance on that.

To move to any situation in which we have greater control of the outcome of the case and the sanction—or penalty or whatever word you want to use—that is to be applied would require a change to primary legislation: we are not empowered to do that under the current act.

Graham Simpson: Could you share the paper with us?

Caroline Anderson: Yes.

It is very poor use of public funds for us to hold a hearing and for the Standards Commission to be there, but for no one else to be present because the councillor has accepted the matter. That does not make sense.

Graham Simpson: That goes back to what we said earlier—it is a very complicated landscape and anything that could simplify it would be positive.

The Convener: I thank the commissioner and her colleagues for attending the committee.

11:48

Meeting suspended.

11:52

On resuming—

Petition

Fire Safety (Stay-put Policy) (PE1719)

The Convener: Agenda item 3 is consideration of PE1719, by Rachel Gibson, on a review of the fire safety stay-put policy, calling on the Scottish Parliament

“to urge the Scottish Government to review the current ‘stay-put’ policy as it applies to the fire strategy for existing multi-storey residential buildings.”

We considered the petition at our meeting on 8 January 2020, and agreed to consider the issues that are raised in it during our evidence session with the Scottish Government on building safety and fire regulations on 22 January. An outline of the issues that were covered during that meeting is set out in the paper from the clerk, alongside previous related work by this and the Public Petitions Committee. Recent submissions from the Scottish Government and from the petitioner are at the end of the paper. A late submission from the petitioner was received on Monday; it is now online, and has is available today.

I invite comments from members, including on what action, if any, the committee should take on the petition.

Annabelle Ewing: Having reflected on the latest documents that are annexed to our papers, and on our discussions thus far, I note that a relevant issue is the research that is to be undertaken. We should close the petition. At the same time, however, it would be of general import beyond the confines of the petition to obtain an update, perhaps by way of a letter, from the chief officer of the Scottish Fire and Rescue Service, to clarify where it is now in terms of the stay-put policy. It is an operational matter.

In summary, we could close the petition but, as a separate action point, we should seek an update from the SFRS, because the matter involves a wider audience.

Graham Simpson: I agree. That seems to be a sensible way forward.

The Convener: I, too, agree.

The property in question is in my constituency, and I would be happy to visit it—maybe with both hats on, but certainly as a local MSP—and to report back to the committee. We have agreed to close the petition. We will write to the SFRS and I will visit the premises.

That concludes the public part of the meeting.

11:55

Meeting continued in private until 12:03.

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