



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Committee on the Scottish Government Handling of Harassment Complaints

Tuesday 15 September 2020

Session 5



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

**7<sup>th</sup> Meeting 2020, 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)
- \*Alex Cole-Hamilton (Edinburgh Western) (LD)
- \*Angela Constance (Almond Valley) (SNP)
- \*Murdo Fraser (Mid Scotland and Fife) (Con)
- \*Alison Johnstone (Lothian) (Green)
- \*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Barbara Allison (Scottish Government)  
Sir Peter Housden

**CLERK TO THE COMMITTEE**

Roz Thomson

**LOCATION**

The Robert Burns Room (CR1)



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

*Tuesday 15 September 2020*

*[The Convener opened the meeting at 10:16]*

**Decision on Taking Business in**  
**Private**

**The Convener (Linda Fabiani):** Good morning and welcome to the seventh meeting of the committee in 2020. Our first item of business is to decide whether to take in private the committee's work programme discussion at next week's meeting. Is that agreed?

**Members** *indicated agreement.*

**Development of Policy on**  
**Handling Harassment Complaints**

10:16

**The Convener:** I will not repeat my statement from the start of our meeting on 18 August, but I remind all those who are present and watching that we are bound by the terms of our remit and by the relevant court orders, including the need to avoid contempt of court by identifying certain individuals, including through jigsaw identification. The committee as a whole has also agreed that it is not our role to revisit events that were a focus of the trial, as that could be seen as constituting a re-run of the criminal trial.

Our remit is clear. It 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."

The more we get into specifics of evidence, the more we run the risk of identifying those who made complaints. The more we ask about specific matters that were covered in the trial, including events that were explored in the trial, the more we run the risk of re-running that trial. I ask witnesses and members, wherever possible, to avoid discussion of the specifics of concerns or complaints, including those that pre-dated the harassment complaints procedure being produced, and to avoid naming specific Government officials.

I welcome Sir Peter Housden, who was permanent secretary from 2010 to 2015, and invite him to make a solemn affirmation.

**Sir Peter Housden** *made a solemn affirmation.*

**The Convener:** I invite Sir Peter to make an opening statement.

**Sir Peter Housden:** I served as permanent secretary to the Scottish Government from 2010 to 2015, after a career of public service in England as a director of education, chief executive in a major local authority and a director general and permanent secretary in Whitehall. As permanent secretary to the Scottish Government, I had a dual role, as principal policy advisor to the First Minister and the Cabinet and as head of the civil service in the Scottish Government.

As a former civil servant, I have no access to Scottish Government documents. Therefore, I shall be relying on my memory of events and circumstances, which are now several years in the past.

I am also bound by the restrictions and legal obligations arising from the legal proceedings in the Court of Session. I am particularly mindful of my obligation to protect the anonymity of the complainants whose testimony gave rise to those proceedings.

I am also subject to the obligations on confidentiality that are imposed on former civil servants by the “Civil Service Management Code”. Within those constraints, I shall, of course, do all that I can to assist the committee.

For full transparency, I declare that I served in the Scottish Government when a number of members of this committee were in ministerial roles, and I remain a member of the FDA union.

I look forward to your questions.

**The Convener:** Our deputy convener, Margaret Mitchell, will ask the first questions.

**Margaret Mitchell (Central Scotland) (Con):** Good morning. You have already said that you were permanent secretary from 2010 to 2015. In 2010, the fairness at work policy was revised to include complaints against ministers. When was that policy signed off?

**Sir Peter Housden:** My understanding is that it was signed off before I arrived as permanent secretary.

**Margaret Mitchell:** Certain documents refer to it as having been completed in September 2010.

**Sir Peter Housden:** I am sure that they are right, but its gestation and development were before my time as permanent secretary.

**Margaret Mitchell:** We know that your predecessor, Sir John Elvidge, was involved in development of the ministerial complaints aspect of the policy. Were you involved at all in that aspect?

**Sir Peter Housden:** No, I was not involved, in relation to the Scottish Government policy.

**Margaret Mitchell:** What about the inclusion of complaints about ministers?

**Sir Peter Housden:** No. That was all done and dusted by the time I arrived in Scotland.

**Margaret Mitchell:** How and by whom were you briefed about the background to the new policy when you took office?

**Sir Peter Housden:** One of my concerns, when I came into post, was to ensure that the Scottish Government had a raft of highly competent staff in its various senior functions, and that we had a full suite of appropriate policies. Those concerning human relations were, obviously, particularly important. I was well briefed by the director of human resources on a number of aspects

concerning the overall arrangements. You will appreciate that there is a suite of HR policies, so we did not go through each one in detail.

I was aware that the policies were there, and I could call on specialist advice, including legal advice where necessary, if their interpretation became an issue. However, I satisfied myself with regard to the competence and experience of staff and the suite of policies that we had available.

**Margaret Mitchell:** Did Sir John brief you on anything as part of the handover process?

**Sir Peter Housden:** I benefited from an extensive set of briefings with John Elvidge before I took up post.

**Margaret Mitchell:** Did that cover aspects to do with the fairness at work policy, which we know he was concerned about?

**Sir Peter Housden:** No.

**Margaret Mitchell:** Did you have any misgivings about the fact that, when the fairness at work policy was signed off, it did not provide for independent investigation of harassment concerns or complaints against ministers?

**Sir Peter Housden:** That was not an issue for me.

**Margaret Mitchell:** In your submission, you state:

“The limiting cases were, of course, situations where a formal complaint was brought against a Minister, and/or there was presenting evidence that an egregious act had been committed. In these cases, formal procedures would be followed.”

We know that, under the fairness at work policy, that means that the complaint would have been passed to you, as permanent secretary, and to Nicola Sturgeon, as then Deputy First Minister. Can you confirm whether those formal complaints involved harassment complaints against ministers, including the former First Minister?

**Sir Peter Housden:** Could you clarify your question?

**Margaret Mitchell:** Can you confirm whether those formal complaints—because we had reached the formal complaints stage of the process—involved harassment complaints against ministers, including the former First Minister?

**Sir Peter Housden:** We are talking hypothetically here, because, from my experience during my time as permanent secretary, no formal complaints were made against ministers in any respect—bullying, harassment or any other regard.

**Margaret Mitchell:** Yes. In that case, your written statement is a bit misleading, as it says:

“The limiting cases were, of course, situations where a formal complaint was brought against a Minister, and ... there was presenting evidence that an egregious act had been committed. In these cases, formal procedures would be followed.”

That sounds as though you were referring to specifics. My understanding is that if a complaint could not be dealt with informally, it had to go to the formal procedure.

**Sir Peter Housden:** I am happy to clarify. I am speaking there across the range of my experience and, again, I am speaking hypothetically, because—as extraordinary as it might sound now—in those years stretching back into the 1990s, no formal complaints came forward against any elected politician in any of the environments in which I worked. What I was seeking to lay out thereby was that, in the absence of formal complaints or known egregious acts, one used informal mechanisms to move forward situations in which one knew that there was a concern.

**Margaret Mitchell:** Were you aware of concerns being expressed if they did not actually get to the stage of being a formal complaint about harassment by ministers, including the former First Minister?

**Sir Peter Housden:** I knew that the former First Minister could display bullying and intimidatory behaviour, yes.

**Margaret Mitchell:** I asked specifically about harassment.

**Sir Peter Housden:** I am not sure exactly how you would define “harassment”, but I knew that he could display bullying and intimidatory behaviours.

**Margaret Mitchell:** Forgive me, Sir Peter, but as permanent secretary, should not it have been your business to be able to define “harassment” and understand what that meant when it, or a suggestion of it, came before you?

**Sir Peter Housden:** In terms of a tight legalistic definition, I would rely on lawyers and HR folk. However, in terms of an everyday understanding of the way that staff might be affected by such behaviour, I think that I could recognise it as well as anybody could. As I indicated, I knew the situation that we were dealing with.

**Margaret Mitchell:** For the avoidance of doubt, did you speak to the Deputy First Minister about any of those harassment complaints?

**Sir Peter Housden:** I am not able to go into specifics in terms of individuals.

**Margaret Mitchell:** I do not think that that is a specific. The Deputy First Minister had a role in the process, so it is merely a question.

**Sir Peter Housden:** I am not able to identify, due to the duty of confidentiality, people to whom I

spoke. In my written evidence, I did indicate that where it was appropriate, in Scotland and other settings, one had a word with another senior politician.

**Margaret Mitchell:** I think, convener, that there is a point of order here. We have been told continually that there is confidentiality under the ministerial code, but this is an inquiry of the Parliament into the Scottish Government’s handling of harassment complaints. You are a witness here, Sir Peter, to facts and events and it is on that basis that I am asking you that question.

**Sir Peter Housden:** And I am bound, as I explained, by the provisions in the “Civil Service Management Code”, in respect of confidentiality, which clearly extend to my dealings with individual ministers.

**The Convener:** As part of your role, Sir Peter, would it have been appropriate, if you had concerns about ministers’ behaviour, to speak to the Deputy First Minister?

**Sir Peter Housden:** It would be appropriate, in all the settings that I worked in, to speak with a senior member of the Administration concerned, yes. However, I am not thereby confirming to whom I spoke on those matters in Scotland.

**The Convener:** But that would have been appropriate under normal procedure.

**Sir Peter Housden:** Yes.

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** You have said, Sir Peter, that you were aware of concerns, and your written statement, or some evidence that you provided, describes the safe spaces that were created in which concerns could be raised. Without talking about individuals, do you feel that those safe spaces were successful as forums for allowing people to bring forward complaints? You have said that no complaints were brought forward.

10:30

**Sir Peter Housden:** I think that safe spaces were indicative of two things. One was that we, as a senior group, took a number of measures to enable all staff to feel better supported and to have a closer dialogue with their line managers. That was important, because the quality of contact between line managers and their staff was variable. The introduction of what we called the “monthly conversation” was designed to close that gap and provide the safe space.

In such a space, it is possible that those types of concerns might be raised. They might also be raised outside them. Our concern was to ensure that there was a bedrock of trust and information exchange between the line manager and the

individual to promote that. Of course, it remains the case that a member of staff might choose to go to another civil servant altogether—one with whom they have an existing relationship of trust. It helped with the general climate, as opposed to its being the only channel that was made available to people.

**Dr Allan:** You have also stated in your written evidence that “all reasonable steps” were taken in your time as permanent secretary

“to ensure that the culture and procedures within the Civil Service were appropriate to our task and meet our duty of care to staff.”

You also say that concerns were dealt with on an “ad hominem”—or perhaps ad feminam—basis. What were the “reasonable steps” that were taken in these types of situations?

**Sir Peter Housden:** Speaking generally, I would say that such concerns are endemic in situations where there is a gross imbalance of power. In the Scottish case, that would be between the First Minister and a rank-and-file civil servant. There is what I call in my evidence an “asymmetry in accountability”, because, in short, civil servants do not have a line of accountability from ministers; ministers are accountable to this Parliament. Therefore there are those sorts of gaps.

In those circumstances, when there is no formal complaint and no known “egregious act”, informal means were the only ones that were available. What did I do then? I am sure that staffing issues, both specifically and in general terms, were brought to the Cabinet quite regularly. We had an annual report on what the staff survey said about morale and the general condition of the civil service at a time of great pressure in the work of the Scottish Government. I also made frequent oral reference—to the First Minister and other ministers as I went about my business—to the importance of morale and motivation among staff.

As I said, I am not able to discuss individual cases and situations, but where there were specific instances and concerns, in Scotland and elsewhere, I would do three things. First, I would make sure that the staff were supported and had a sympathetic listening environment and that I understood the specific circumstances that had given rise to their feelings and their concern. What had happened to trigger the circumstances? What was the context?

Secondly, I would ensure that the minister or senior councillor concerned knew that I knew. The normal route into that was to discuss the materiality of the question. I would ask, for example, what was the issue in Falkirk last Friday? How can I help? What happened there? That kind of thing would start the conversation,

and, of course, it would have the effect of conveying the fact that I knew perfectly well what had happened in that circumstance.

Finally, where required—it would not be required on every occasion—I would seek advice from, or maybe just pass information to, a senior councillor or minister on those kinds of issues.

Why would I do that? Well, we were not dealing with a formal complaint, so we were not dealing with any formal procedures, if those existed in the jurisdiction, although I should say that they did not exist in either of the other two environments that I worked in. We were not dealing with a formal situation. The purpose was, first, to seek advice, because the individual concerned—the minister—would be better known among his or her political colleagues than they would be among the civil service. Secondly, I felt that it was important to ensure that the Administration knew what we were dealing with.

Therefore, that approach was part of keeping the issues front and centre. The civil service is entitled to expect ministers to be able to control their behaviour, and where behaviour had gone beyond reasonable bounds but had not triggered a complaint, it did not seem to me to be unreasonable that that fact should be known about. Of course, if the individual minister concerned had additional information about particular circumstances, that was always important.

That is the kind of thing that one did in those circumstances. The culture in which I had grown up in local government and in Whitehall was one in which formal procedures were not available and were not triggered by a known egregious act or other complaints, and that is how permanent secretaries plied their trade. Such situations would not be particularly numerous or widespread—you would be talking about a small number of individuals now and again, but they could be significant and they were certainly significant in the lives of the people who had been subjected to the behaviour—but, where they occurred, the expectation was that you had a duty of care to use the resources at your disposal to engage with the issue.

You might ask, “Did it make a difference? Did those informal measures add up to anything?”, and my honest answer to that would be, “In the short term—sometimes.”

**Dr Allan:** You have partly anticipated my next question. Without talking about individuals, do you feel that, during the time of your involvement, the civil service was learning lessons about the reasons why people do not raise complaints? You have mentioned some of those reasons, but were lessons being learned and were things being



changed to try to overcome some of the obstacles to people raising complaints of the kind that you mention?

**Sir Peter Housden:** I hope so. Certainly, we had and benefited from a strong relationship with all the trade unions, and not only in a routine sense. I used to meet the trade unions once or twice a year, on a round-table basis, and the most interesting part of the agenda was always when the formal business had been finished and the trade unions wanted to share particular matters. There were also opportunities for trade union officials, individually and collectively, to talk to me.

Therefore, we certainly knew—if ever we needed the knowledge—that the gross imbalance of power to which I referred would make it very likely that people would be very thoughtful about coming forward. It was also apparent, particularly at the top of the office, that staff were deeply committed to their role and were energised by and proud of being a civil servant at the top of the Scottish Government. One thing that attracted me to Scotland was the long-standing tradition of pride, service and activity that predates devolution and that attended civil servants in Scotland. In my day, there was evidence at the top of the office that people really believed in what they were doing, wanted to do it really well and understood that they would be working under significant pressure.

There were those two things: an imbalance of power, and the motivation of people to do the best that they could for ministers of whatever stripe. That was an important issue. It was not a partisan thing; it was about being a good civil servant, which was what drove those people. Both those things would constrain an individual from wanting to push an issue.

They would often be forgiving, as they would say, “Life is very stressful for senior politicians at the top,” et cetera.

We were conscious of that. To go back to your earlier question, the monthly conversation was part of the suite of measures.

I wonder whether I could help the committee a bit here. I do not know what the arrangements are currently, but I had very close physical proximity to the First Minister’s private office, by which I mean not just his proper private office but the communications team, the special advisers, events—all those people. They were literally across the corridor in St Andrew’s house. I made it my business to be in their open-plan office often. I would have conversations and I knew a good number of those people. I had very regular conversations—weekly at least—with the principal private secretary. We were always—properly—talking about the arrangements to support the First

Minister and the Cabinet in the discharge of their duties. That is what I was essentially there for. A key part of my role was to get the civil service to work as effectively as it possibly could for ministers so that they could fulfil their programme within the law. That was the job. The principal private secretary and I talked all the time about how well we were doing that.

If we had bullying and intimidatory behaviour, that was a clear signal that something was not working for somebody—probably for both parties. Did we talk about that? Yes, we did, and we talked a lot about the measures that would ameliorate it for both the individuals and the First Minister, to smooth things along so that they worked better.

I will give you a sense of frequency again. For much of the time, that office, that operation—the whole show—ran really well, with great energy and motivation on both sides. The normal diet was of pace, excitement, things happening, things being fixed—on we go. You are all familiar with how political environments work. They are very energising places to be, but they were punctuated by the kinds of behaviours that were a problem in the way that I have described.

Did I know about them? Yes, I did. I listened to your earlier proceedings, when there was a question about the rumour mill. I did not have to rely on the rumour mill. It was my daily working life: I was in touch with those people and alert to their concerns. Did we get more sensitive to them? Yes, we did, but, again, we were working in an informal environment. We did not have an individual or people collectively coming forward to say, “Up with this, I will not put. You must do something.”

Nor did we have a known egregious act. I am sorry about the vocabulary. I am talking about something that would strike anyone, regardless of what the complainant thought about it, as unacceptable behaviour. In those circumstances, you have something to get hold of. If you have a complaint or a known egregious act, you have something that you can act on. I have tried to describe the kinds of things that I did in the absence of those two conditions.

**The Convener:** I am aware that time is moving on. We now have a very good background of how Mr Housden—sorry, Sir Peter—ran the show when he was permanent secretary, so we can move on to questions from Alex Cole-Hamilton.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** Good morning, Sir Peter. Thank you for coming to see us today. You said in response to Alasdair Allan’s questioning that bullying behaviour would punctuate office life in St Andrew’s house. Did you witness that bullying behaviour on the part of Mr Salmond?

**Sir Peter Housden:** I cannot go into specifics. You will appreciate that.

**Alex Cole-Hamilton:** I am afraid that I do not appreciate that. You are under oath here. I understand that you have a duty of care to protect the identities of people who might have been involved, so we are just asking, from your recollection of the facts: did you witness Alex Salmond shouting at or bullying an individual member of staff?

**Sir Peter Housden:** I was well aware, in the way that I described, that those behaviours took place. I had a number of conversations with people who had been on the receiving end of them, and, as I indicated, I had many conversations about what we could do to prevent their occurrence.

**Alex Cole-Hamilton:** Did you witness it? Did it ever happen in your presence?

**Sir Peter Housden:** No.

10:45

**Alex Cole-Hamilton:** Okay. This was widely known; you said that you knew about the rumour mill because you knew that the behaviours were happening. Were you aware of a hum of concern about sexually inappropriate behaviour on the part of the First Minister?

**Sir Peter Housden:** There was no indication, at any stage in my time in the Scottish Government, or indeed before, and no suggestions of sexual misconduct.

**Alex Cole-Hamilton:** Okay. Did Mr Salmond ever shout at you, personally, or act in a bullying or aggressive way towards you?

**Sir Peter Housden:** No.

**Alex Cole-Hamilton:** Okay. Were you aware of him ever shouting at any of your directors general?

**Sir Peter Housden:** No. I was not aware of him ever having shouted at any of my directors general—sorry, I am trying to answer your question specifically.

**Alex Cole-Hamilton:** That is fine. For the record, may I clarify that you are saying, under oath, that at no point, either formally or informally, did Leslie Evans raise concerns with you about the way in which she had been treated by Mr Salmond?

**Sir Peter Housden:** I have no recollection of that occurring. The senior group—I have talked about the private office—of directors general and I had the collective responsibility to get the civil service to work effectively for ministers, and, although these were not regular conversations,

from time to time an individual director general might be having an issue with a minister that could be on the boundaries of these kinds of behaviour, and of course we would talk about what was actually at stake here, in all sorts of ways.

I say again that these circumstances were not the stock-in-trade of day-by-day work, but they occurred, as they do in other working environments, and I have described the moral and legal responsibility that we had, as an employer, to attend to those circumstances in the best way that we could.

**Alex Cole-Hamilton:** May I go back to Margaret Mitchell's line of questioning? You have said several times that you had a way of handling these behaviours and making sure that they were smoothed over or dealt with to both parties' satisfaction.

You described an event in Falkirk. If such behaviour became habituated and you felt that you were not making progress and particular members of staff were on the receiving end of Mr Salmond's temper, it strikes me that, as we have established, the appropriate procedure would have been for you to discuss the matter with the Deputy First Minister. You keep hiding behind the defence of confidentiality rather than saying to the committee whether you ever actually discussed the matter with Nicola Sturgeon. I do not understand that tension. This is a matter of process. We are not asking you to identify complainers or the individuals involved. We just want to know whether you applied the process that you have agreed with us would be the appropriate way forward, by raising these issues with Nicola Sturgeon at any point.

**The Convener:** May I intervene here? It is quite right that we talk about process, but we are not putting Mr Salmond on trial in this committee. Can we be less specific about naming incidents and people and can we stick to the process, please?

**Alex Cole-Hamilton:** Forgive me, convener, but I do not believe that I have named a specific incident. This is about the culture and how things were dealt with. Sir Peter Housden has taken us through that, but I am not content that the defence of confidentiality should prohibit him from just confirming how things were done before the procedure was brought in. That is what this committee—

**The Convener:** That, in itself, is a different issue from speaking about specific incidents that relate to one person, who has already been on trial. This committee is not about rerunning the trial; it is about looking at the culture of the organisation and the Scottish Government's response. I ask you to veer away from being very specific about names.

**Alex Cole-Hamilton:** Okay. I will rephrase. Sir Peter, did you ever raise any concerns about any ministers with Nicola Sturgeon?

**Sir Peter Housden:** I have nothing further to add, convener, to my previous answers in respect of this.

**Alex Cole-Hamilton:** Okay. I have a couple of final questions. When you were handing over to Leslie Evans, did you ever discuss with her the management of ministers' conduct towards civil servants?

**Sir Peter Housden:** Let me refer back to what I just said: it was part of the conversation that went on in the senior group, it did not therefore need specific going over.

My handover with Leslie Evans was focused on issues of the moment that I was dealing with that she would be picking up the reins of. There was, for example, a live procurement issue of some depth and complexity—there always are. It was that kind of thing.

**Alex Cole-Hamilton:** I get that, and thank you for that, but, as we have established, there is always an informal side to the process, too—discussions about where the bodies are buried happen when anyone hands over to someone else. Given the extent to which you had to manage bullying behaviour by certain ministers—that would have been one of the grimmest aspects of your job, because it is one of the most sensitive ones—surely you had conversations with Leslie Evans about how to deal with that.

**Sir Peter Housden:** Leslie Evans was part of the conversation—over the time that I was in Scotland, she was a member of the senior group. However, bear in mind again that we had no known egregious acts or formal complaints and there were no indications of sexual misconduct. As far as we knew, we had no bodies buried. There was nothing in my secret box that I had to pass on to the new permanent secretary.

On the general conversation that Leslie Evans was part of, we had not got formal complaints or known egregious acts.

**Alex Cole-Hamilton:** That ties nicely into my final question. That reality might be down to not many people having confidence in the complaints procedure against such a powerful figure. Did any of the concerns raised with you ad hominem, to use your phrase, become formal complaints on the creation of the procedure in 2017 to 2018?

**Sir Peter Housden:** I could not tell you. I have no access to that information or to the complainants, so I am not able to help you.

**Angela Constance (Almond Valley) (SNP):** Mr Housden has spoken in detail about the informal

process for dealing with any concerns. In paragraph 2.29 of your written submission to the committee, you say:

“where a formal complaint was brought against a Minister ... formal procedures would be followed.”

Will you talk us through how such a formal procedure in your time as perm sec would look?

**Sir Peter Housden:** The formal procedure that existed in my period as permanent secretary was based on the fairness at work process. That is based on, of course, employment law and good-practice advice. Had we had a formal complaint or a known egregious act, that is what we would have followed.

**Angela Constance:** The Scottish Government's written evidence states in paragraph 19 that its 2017 review found that none of the policies in place allowed consideration of complaints against former ministers. That is obviously a reference to policies in your time as permanent secretary. Did you ever consider expanding policies to include former ministers?

**Sir Peter Housden:** No. In my recollection, there was no conversation about the width and the coverage of that policy—that was relatively recent. Of course, it predated by a good number of years the watershed of the #MeToo movement. There was no consciousness in this organisation, in the civil service or more broadly of the prevalence of the behaviours that here and elsewhere have led to some very important safeguarding procedures being put in place, so, no, those conversations were not part of the diet.

**Angela Constance:** In paragraph 2.31 of your submission—you have already spoken about this—you talk about a

“structural imbalance of power and asymmetry in accountability”.

You also acknowledge that, ultimately, ministers are accountable to Parliament. How could stronger external accountability for ministers, perhaps via, as you suggest, an independent parliamentary standards commissioner, be implemented to complement and support ministerial accountability to Parliament?

**Sir Peter Housden:** That is a very important issue. It is also very technical and I am inexperienced—particularly five years after the fact—as to how that would be articulated and what its relations to the existing policies would be.

It seems clear that any independent element would not be a substitute for good HR policies on the ground but would stand as the guarantor—if you like—and as a place of last resort for a complainant. The fact that those things could take place would be important and would have a symbolic and material effect on the climate in

which people were working. However, I would not go any further in specifying how that might be done because, again, that would go beyond my expertise. In making that response, I was seeking to come back on the invitation that the convener gave me, but that is very broad brush.

**Angela Constance:** Given your range of experience in public service in different settings, do you have a view on whether pastoral support for staff in the event of a concern should be separate from more investigative roles around specific complaints?

**Sir Peter Housden:** You talked about “pastoral support”. Could you help me a little further on that?

**Angela Constance:** The committee has heard a fair amount of evidence on the Government’s attempts to provide support when staff raised concerns informally. In your view, is it important that the processes around pastoral support in relation to more informal concerns are kept separate from more formal investigative processes?

**Sir Peter Housden:** My understanding is that it is a principle of good HR practice that an investigation is undertaken by somebody who is not involved on a day-to-day basis with the circumstances that are being investigated.

**The Convener:** Before I move on to questions from Jackie Baillie, I will ask Sir Peter’s opinion on something that I found interesting. We have heard that the Scottish Government was the first Administration in the UK to decide to include former ministers in its policy, and that no other Administration has followed that lead. The trade unions were particularly strong on discussing that. What is your opinion on that?

**Sir Peter Housden:** I referred to the #MeToo movement, and one of the most powerful pieces of learning for me—and, I guess, for many others—has been to understand the kind of issues and pressures that there are for women who have experienced sexual assaults, which can, in many cases, defer or prevent their coming forward to recount their experiences in a formal way, as well as the kind of triggers that enable them to do so. It can be argued that a formal procedure is one of the safeguards that would make that more likely.

With the #MeToo movement, we saw a very considerable time delay in women coming forward, in a whole series of different environments. In those circumstances, it seems right to enable those complaints to be made against former ministers. If we were to run the tape in the other direction and say that a person can never make a complaint against a minister unless he or she is in post, that would seem highly restrictive. It therefore seemed to me to be an important step in

recognising and protecting the circumstances of, particularly, women; and particularly those who have been subjected to sexual assault.

11:00

**Jackie Baillie (Dumbarton) (Lab):** Good morning, Sir Peter. Obviously, the fairness at work policy applied during your tenure as permanent secretary, and it still applies for staff other than ministers and former ministers. Is there anything wrong with the fairness at work policy that you would change?

**Sir Peter Housden:** Five years after the fact, I would not venture a view on that. Serving officials would be much better placed to give you a view.

**Jackie Baillie:** Thank you.

In a similar vein to what Angela Constance and the convener asked, when you were the permanent secretary, did you identify a gap or see a need for a policy that covered former ministers and former civil servants?

**Sir Peter Housden:** No.

**Jackie Baillie:** Did the current permanent secretary consult you about the wisdom of introducing a retrospective harassment policy?

**Sir Peter Housden:** No.

**Jackie Baillie:** I encourage you to answer my final question. I am not asking you to name people who reported concerns or even to name people about whom concerns were reported, and I am not asking about particular ministers; I am asking a process question that is not prohibited by the civil service code. You said in response to Alex Cole-Hamilton that, when people raised concerns with you, you would speak to senior ministers. Will you define for me what a senior minister is?

**Sir Peter Housden:** Let me be doubly clear. That was not an invariable part of a procedure that I followed. I would do that where appropriate.

**Jackie Baillie:** But you have done that.

**Sir Peter Housden:** I have done that.

**Jackie Baillie:** I am seeking to understand what a senior minister is. A minister is not senior by dint of their age or longevity in office. It is clear that you are referring to a type of minister. I assume that that is not the entirety of the Cabinet. I am seeking to understand your own words, Sir Peter.

**Sir Peter Housden:** I think that the adjective that I used was “senior”.

**Jackie Baillie:** You did.

**Sir Peter Housden:** That would be a senior minister with whom I felt that such a conversation would be profitable.

**Jackie Baillie:** Forgive me for being a bit pedantic, but I think that you would agree that “senior” does not relate to longevity in ministerial office or to somebody’s age, but to the post that the person holds. When you talk about senior ministers, who do you mean?

**Sir Peter Housden:** Longevity and experience are often factors in all of that. However, I am not going to play a part in the jigsaw identification of ministers.

**Jackie Baillie:** Oh. Okay. I think that “jigsaw identification” applies to complainants. I am simply interested in a process question about whom would you alert. I will make an assumption that senior ministers are the First Minister and the Deputy First Minister—they are in my book. Would that be an unwise assumption to make?

**Sir Peter Housden:** I have no further comment to make on those questions.

**Jackie Baillie:** Thank you very much, Sir Peter.

**Margaret Mitchell:** I thought that the convener should have intervened on Jackie Baillie’s point to explain that we were not talking about—

**The Convener:** I think that Ms Baillie is quite content with her response.

**Margaret Mitchell:** We are not talking about complainants; we are talking about senior ministers. “Jigsaw identification” refers to complainants.

**Jackie Baillie:** I think that Sir Peter is clever enough to understand the nature of my question and exactly what he said to me. He had no further comment to make.

**Murdo Fraser (Mid Scotland and Fife) (Con):** Good morning, Sir Peter. Alasdair Allan has already gone over some of the ground that I was going to cover, but I have a few short questions. In your written submission, you say:

“informal resolution was generally considered by all parties to be the most appropriate and effective solution.”

You go on to say:

“Where there were individual Ministers whose behaviour was a cause for concern, the expectation was that the Permanent Secretary would manage these situations without recourse to formal procedures. Confidentiality requirements preclude me from sharing the particulars of my experience but I took actions on these lines in a number of settings.”

“A number” could be one or 100. Can you give us a flavour of the scale of those issues when you were permanent secretary? On how many occasions did you have to take action?

**Sir Peter Housden:** When I refer to “settings” in paragraph 228, I am talking about the different jurisdictions in which I have worked. Those kinds

of issues arose in each circumstance. The vocabulary here is not helpful. Those people who have been involved in cases involving mediation, for example, will understand the proper sense of the word “resolution”, which is that people are brought together to seek to effect some kind of understanding that enables them to carry on working together. I am not using “resolution” in that strict, formal sense. I am talking about things that one would do, in a way that I have described, to move the situation forward.

How frequently did such issues arise? In my time in public service, which was a long period, the number of ministers involved would be in single figures. The persistence of the issues varied in that very small sample of ministers, but it could be part of the everyday life of engaging with the minister. However, I want to re-emphasise that they were part of the universe of working with that minister and did not define what working life was like, although there was always that possibility in the background. That is the kind of circumstance that I was talking about.

**Murdo Fraser:** Thank you for that clarity. The committee is interested in your time as permanent secretary to the Scottish Government. Could you put a number on how many cases we are talking about in that context?

**Sir Peter Housden:** I dealt with a number of cases—a number!—in local government and in Whitehall. The answer in relation to Scotland would be not many.

**Murdo Fraser:** Was it fewer than 10?

**Sir Peter Housden:** Certainly—in the totality of my public service the number of such cases was fewer than 10.

**Murdo Fraser:** In previous sessions, we heard from the trade unions about how, if staff raised concerns, the resolution would often be for the individual who had raised the concerns to be moved to another department. Is that something that you encountered or facilitated personally as permanent secretary?

**Sir Peter Housden:** It would not have been the kind of thing that I would have facilitated as permanent secretary. There were many reasons why a member of staff might move from a private office environment. Some of those were not as a result of egregious behaviour but because of a failure to click, so the minister and the individual had a mutual agreement that it would be best for that individual—there are all sorts of vocabulary for this—to come away. I was aware that those kinds of things would happen. Most people with such experience will understand that it is a very high pressure environment for the minister and the staff who work for them and the attrition rate was relatively high. People do it for a time and then

move on. However, to be specific I was never involved in the circumstance, which I think is implied by your question, in which we had a sense that an individual had been badly treated in behavioural terms and it would be necessary to move them out of that environment.

**Murdo Fraser:** We have heard from other witnesses about how informal arrangements can sometimes be made to complement formal procedures. Without going into specific cases, are you aware of any changes in working practices that were made in relation to ministerial offices as a result of concerns that were expressed by staff?

**Sir Peter Housden:** The context here is of the conversations that I had all the time with the principal private secretary about getting the machine to work effectively for ministers. All the time, we talked about arrangements, fine tuning and what the principal private secretary was doing in the environment to get things to work.

That was very rarely about behavioural issues per se; it was much more normal to be about the shifting current of Government business and what would help the First Minister. For example, as renewable energy became a bigger and bigger issue, I remember reinforcing the staff who had that kind of expertise in his office, in order to help with those circumstances. We would talk about those kinds of issues.

**Murdo Fraser:** Was there ever an example of a concern about a behavioural issue on the part of a minister leading to a change in working practices?

**Sir Peter Housden:** No—there was certainly not one that was put to me in those terms.

**Murdo Fraser:** I have one final question. Earlier, you talked about bullying and intimidatory behaviour. In your experience, was such behaviour directed at women in particular rather than at men, or was there no difference?

**Sir Peter Housden:** I re-emphasise that, throughout my time, there were no indications of sexual misconduct in relation to any minister. I did not identify any differentiation in terms of whether women or men were more likely to be the subject of such behaviour.

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** Good morning. You said that there were no formal complaints against ministers during your time in office as permanent secretary. However, were behaviours and actions taken to avoid formal complaints?

**Sir Peter Housden:** Could you help me a little further? By whom?

**Maureen Watt:** By anybody who was involved in the high-pressured situation.

**Sir Peter Housden:** I am certainly not aware of anyone seeking to avoid such a complaint being made.

Could you help me a little bit more?

**Maureen Watt:** Was there any involvement from the trade unions, for example, during your time? Did they come forward with any complaints about ministers?

**Sir Peter Housden:** As I have said, from time to time, there were conversations with senior union officials about the circumstances in the First Minister's office. At no stage did those crystallise into an individual complaint or a collective class action. I should not speak for the trade unions. They have given evidence to the committee. The culture in which we were operating was very much one of informal handling of such situations.

**Maureen Watt:** At any time, did you have to make any minister or cabinet secretary aware of the fairness at work policy and how staff should be treated?

**Sir Peter Housden:** I did not do that in relation to fairness at work, specifically. However, in relation to my collective work with ministers in the Cabinet, and individually, I often talked about the overall position in the civil service. I talked in some detail about the staff survey, what it said and what we could draw from it in order to understand where the organisation was.

As individual ministers went about their business, they talked to me all the time about the officials who worked to them, how effective they were and ways in which we could supplement, augment or improve the situation that they were in. We would often talk about people's experience, motivations and the circumstances in which they did well and those in which they did less well. Those conversations took place. I always tried to be sympathetic. Ministers did not raise questions that were trivial; they clearly mattered to the minister concerned. I emphasised how hard staff worked on their behalf and the importance of morale and motivation. That kind of intervention was typical during the conversations that I am describing.

**Maureen Watt:** Did you ever have to remind ministers of the ministerial code that they had signed and the behaviours that are required under that?

11:15

**Sir Peter Housden:** No, that would not have been necessary. We would be an awfully long way down the track and the conversation would not be going well if we got to that kind of circumstance. Ministers were perfectly aware of the terms under which they were appointed and of the overall

climate. We did not get into those kinds of conversations.

**Maureen Watt:** The ministerial code has been revised since your time. I am assuming that you have looked at both the fairness at work policy and the current ministerial code. Do you think that they reflect the current situation in terms of working relationships in the Government and the civil service?

**Sir Peter Housden:** I am ill-qualified to offer a view on that, being five years, and counting, away from it. Current officials would have a better view of that.

**Maureen Watt:** You said in response to a question from Angela Constance that you thought that involving a parliamentary standards commissioner might be a good idea. Do you still believe that to be the case?

**Sir Peter Housden:** I have seen use of independent advisers on such questions—for example, in the procedure that was used for complaints against the First Minister. In the years since I have been away, we have seen, in Westminster and beyond, independent commissioners of different kinds being appointed and going about their work. As a general proposition, that seems to have some interesting things to commend it.

To go back to Ms Constance's point, there are some important technical governance questions on which I would be particularly unsuited, at this distance, to offer advice. I am sure that there are people who could help the committee better than I could.

**Maureen Watt:** Finally, in all of this, a lot of people have been involved who have not had specific HR experience. Is that a failure? For example, if an independent person was to come in, would not they have to be very au fait with things such as the fairness at work policy and current employment law?

**Sir Peter Housden:** You are talking about an independent person.

**Maureen Watt:** They would be independent, but also within the civil service. We have heard that a number of people have held senior posts who do not have HR qualifications. You would not put someone without a legal background in a position in which they were advising on the law. It seems to me that the civil service generally has been lacking a requirement to have HR professionals in post.

**Sir Peter Housden:** I understand. Let me take the two parts of your question.

In terms of an independent commissioner, what is more important than the precise focus of their

experience and background is their standing. They need to be people of self-evident high integrity who would command respect among MSPs and the wider community. That is point 1.

Point 2 is that it would have to be ensured that a commissioner had access to the highest quality of legal and HR advice. They would also need to understand what it is like to work in a democratically accountable environment, as members do, and, similarly, what large and complicated organisations are like. You could work up a person specification along those lines and get some really powerful people coming forward to do it.

There is a different set of considerations for staff within the body of the Scottish Government. As Maureen Watt knows from experience, HR is a very wide church. It covers such things as leadership development all the way through to the formalities of grievance and discipline procedures, whatever they may be. A variety of skills needs to be brought to bear, and judgment is needed among the senior group about how to deploy those skills in particular circumstances and when to call in external advice.

To draw a legal parallel, I say that the legal service will draw on external legal advice when it is in specialist territory. Similarly, in HR one might choose to have somebody independent who is not from your part of the civil service. There is a range of considerations, and one would need to make sure that in any particular circumstance, the people who were charged with a responsibility were capable of discharging it.

My final point is that qualifications can be important, but they are no determinant. We have all worked with people who have a lot of qualifications but who lack judgment and experience. You therefore want a mixture, and you need to be sure that, in the circumstances, the person has an appropriate balance and is well supported. We all reach the end of our technical competence and need somebody to run propositions past, and to ask, "I'm seeing it this way. Do you agree?" There is therefore quite a rich canvas to consider in terms of reaching a view about the fitness for purpose of an individual in a particular circumstance.

**Alison Johnstone (Lothian) (Green):** Good morning. I have a question about a point that you make in paragraph 2.17 of your written submission. I appreciate that it refers to a recollection, but you say that your

"recollection is that there was not thought to be a systemic problem of under-reporting in relation to bullying and harassment."

What informed that view?

**Sir Peter Housden:** The metric that we principally had was in the staff survey. I think that you have already had evidence on just what an undefined and difficult category bullying and harassment is. It is a pretty blunt instrument for trying to understand what is going on in an organisation, because you are dealing with a wide variety of behaviours that are exhibited by a wide variety of individuals—from members of the public all the way through to elected politicians—and you are resting on individual perceptions; that is, on what the individual concerned regarded as bullying and harassment. It involves quite a mixture of things.

So, what did we do? Well, we listened carefully to staff and to the trade unions about all that. Our presumption was always that one genuine case of bullying and harassment was one too many. We were mindful that a lot of the cases that occurred were rooted in managers being out of their depth and not knowing how to lead staff effectively or to respond to concerns in an appropriate way. We therefore did a lot of work on training and development, and on selection, to ensure that the overall level of competence among our leaders and managers rose, and we had some evidence that that was working. We would look at such circumstances and talk to the trade unions.

When I looked, however, at the comparative levels of bullying and harassment reporting across the very wide civil service survey that was published every year, our figures did not stand out. They were better than some and were, of course, higher than we would have wanted, but they were considerably better than those in some other organisations. The levels therefore did not suggest to me that there was an endemic problem of underreporting.

**Alison Johnstone:** In responding to my colleagues, you have spoken of informal means to address areas of concern. Reflecting on whether those means were effective, you said that they were sometimes so in the short term. I think that you also mentioned this to Murdo Fraser, but you say in your written submission:

“In considering our general approach, informal resolution was generally considered by all parties to be the most appropriate and effective solution.”

That speaks to me of a culture in which there was perhaps an element of reluctance to take that next step. Is it your view that there was enough support to take concerns further when that was clearly warranted?

**Sir Peter Housden:** You make an entirely fair point. We are talking about the period from 2010 to 2015. I think that, under the prevailing culture in the Scottish Government at that time—and in environments in which I had worked and others that I knew of—that was the presumption. I think

that I said in my written evidence that it fell to the permanent secretary to use informal mechanisms to move such situations forward in the best way that he or she could. Your point is quite right; it is a cultural thing. That was the expectation that was on a permanent secretary when he or she took up post, and that is what happened.

I am sure that the work of the committee will contribute further to the process. What has happened, particularly since 2017, has taken us on a very important journey into an environment in which people, particularly women, feel better supported in the everyday course of their work, and are able to make decisions because they are aware that there are formal procedures that they have seen working and have confidence in, and which have some kind of guarantee of integrity.

The point about people making a decision is the important thing. At the end of the day, it will be a decision for the individual employee to make, and it is a big one—as, I am sure, the evidence that you have received will have made clear, if it needed any underlining. It is a very significant thing to do. However, the important thing is that we create the conditions in which people can take those decisions soundly.

**Alison Johnstone:** In your written submission you note that

“Culture will remain the critical factor, however.”

In that case, perhaps we need to move away from a culture in which there is almost a determination to have an informal process rather than a more formal process.

You also note that

“The public climate is much more sensitised to these issues now and rightly so.”

However, you also say that

“The key, however, will be political will.”

So, as you have just alluded to, where political will might be lacking, for a variety of reasons, there is a need for a clear pathway for complainants.

**Sir Peter Housden:** Yes.

**Alison Johnstone:** Can you outline any efforts that were made during your tenure as permanent secretary to ensure that such a pathway existed?

**Sir Peter Housden:** As I have indicated, the perception that we needed a more robust formal process to enable members of staff to have the confidence in the process that I have just described was not there in my years. So, as you rightly identify, the cultural expectation was that those cases would be moved forward as best they could be informally.

I would like to say a word about the idea of an informal process—I know that you understand it



perfectly well, but I would like to make it clear, just for the record.

Employment law and good practice advice make it clear that, in any circumstance where there is a conflict or a problem to resolve, you should start informally—with a small “i”. It is not a good thing for people to leap immediately to procedures. Of course, there must be an opportunity to understand and to see just how serious the issue is and where it is going. I think that Alison Johnstone’s point is that that needs to be underpinned by a clear pathway that gives people confidence that they can take an issue forward if they want to do so. I identify strongly with that proposition. I think that that would be a big step forward, but it was not the culture or environment that pertained in the years up to 2017—certainly not in my time as permanent secretary.

**Alison Johnstone:** At paragraph 2.15 in your written submission, you note:

“Firm and sensible line management would sometimes be interpreted as bullying and harassment.”

That raises the issue of the impact of behaviour not being clearly defined. How do we prevent that? How do we better inform understanding of what constitutes bullying and harassment, or is it the case that there will always be an element of the perception of the individual?

**Sir Peter Housden:** That is a good question. I think—to start where you concluded—that there will always be an element of perception. It is the job of the organisation to ensure that the individuals concerned and, indeed, all the employees in the organisation, have access to a really good manager who is empathetic, clear and supportive in many ways. In my time, work to train line managers at all levels in those skills was intense, and I am sure that it continued beyond my time.

Another way in which the staff survey was extraordinarily helpful was that it allowed us to target places in the organisation where the evidence suggested that there was an issue. The broad staff engagement score could be broken down to quite a level of granularity, in terms of divisions and directorates, so we could identify areas where there was an issue, open the box, see what was happening in the circumstances and take steps to improve it. That was enormously helpful. It was not just a scattergun approach; we could see that the problem was in one place or another.

11:30

Just to make it clear that the issue was important for us, I note that I distinctly remember a conversation with a director general about setting objectives for the year ahead, in which I

exemplified the staff engagement score in a particularly important division that was that individual’s responsibility, and we set it as a priority for them to tackle the underlying issues. It was a serious issue for us, and was basically about management capability.

However, at bottom, the matter will always depend on perceptions. I know, as Alison Johnstone will know, of circumstances in which highly capable managers moved into a more formal procedure with a member of staff who was struggling to deliver what was expected of them. In some environments, that can be quickly followed by a grievance that alleges bullying and harassment. One person’s bullying and harassment is another person’s firm line management. As I have described, I just hoped that the quality of the management was good enough to reduce the number of people who felt that way, and to help us to move forward when they did. However, perceptions will always be perceptions.

**Alison Johnstone:** In your written submission, you suggest a number of preventative measures that could be considered, some of which we have discussed today. You refer to

“Enhanced Ministerial induction and on-the-job training”.

Maureen Watt asked whether you had had to make ministers aware of how staff should be treated. Could more be done in that regard?

**Sir Peter Housden:** Again, I am sorry, but I am so far away from it now. You will know much better than I do the arrangements that obtain in your party, within the Scottish Parliament and within the Scottish Government as a whole. However, in my time—bearing in mind that it finished five years ago—ministerial training was quite rare. It tended to happen infrequently and, in Whitehall, typically at relatively junior levels. It would not be difficult to get people to agree that somebody else needed training, then those arrangements would be made.

In my day—I am speaking only of that—the arrangements could have been improved. In my experience in local government, we found that what helped was not requiring politicians to listen to experts but enabling them to talk to each other about the circumstances that they dealt with. To use the jargon, that involves peer-to-peer learning in which a minister describes his or her experience to colleagues and talks about the things that they found difficult and what worked.

That creates an environment in which people feel able to admit things that did not work and that they did not get right. That is how people learn. It is about a rich environment that, I would venture, you as elected members would feel in charge of, so that you feel that it is your product rather than something that you are required to do. That seems

to me to be the thing that would be most likely to help in this environment.

At the end of the day, people will watch carefully what the most senior people do, which is what I mean when I talk about example. You can have all the apparatus, but people will watch what others do. That, too, is a very important component.

**The Convener:** Thank you, everyone. That concludes our questioning.

**Alex Cole-Hamilton:** On a point of order, convener—

**The Convener:** We do not have points of order at committees, but I am happy to let you say something if you would like to.

**Alex Cole-Hamilton:** I am sorry.

I just want to state something for the record. You mentioned during an earlier line of questioning that I was in danger of putting Alex Salmond on trial. That was not my intention.

I hope that it has become obvious to everyone by now that with my line of questioning I am seeking to establish whether there were concerns about Mr Salmond in the upper echelons of the civil service that were sufficient to characterise the design of the new procedure. If that was done specifically to fit concerns about Mr Salmond, it is important for us to know. In order to establish that, I have pursued a line of questioning that asks about the concerns that were held about Mr Salmond at the time.

**The Convener:** Ok. I think that that is noted for the *Official Report*.

That leads me to something that I would like to place on the record that I think is appropriate. I refer everyone to a letter from Mr James Hynd, who gave evidence to the committee fairly recently. His letter has been published on the committee's webpage, but Mr Hynd is concerned that some of the evidence that he gave was later misrepresented, and has asked that a particular point be put on the record at this meeting. He is clear that he

"was not aware of any rumours about 'sexually inappropriate behaviour' on the part of Mr Salmond or other Ministers."

I thank Sir Peter Housden for submission of his written evidence and for coming to speak to the committee, both of which were done voluntarily.

We will have a short break to allow for the changeover of witnesses.

11:36

*Meeting suspended.*

11:44

*On resuming—*

**The Convener:** I welcome Barbara Allison, former director of people at the Scottish Government from 2009 to 2016. Ms Allison remains a civil servant, as director of communications and ministerial support. I begin by inviting Ms Allison to take the oath.

**Barbara Allison took the oath.**

**The Convener:** I invite Ms Allison to give an opening statement in order to explain her job role and work on policies preceding the complaints procedure.

**Barbara Allison (Scottish Government):** This opening statement aims to give some context about my current role as director of communications, ministerial support and facilities, and about my previous role as director of people, with regard to the matters that relate to the committee's remit.

I have worked with the Scottish Government since 2008, following 14 years with the Scottish Prison Service, latterly as director of HR for five-and-a-half years. I was asked to join SG as head of HR in January 2008, and was subsequently promoted to director of HR and corporate services in 2009. Since June 2016, I have been director of communications, ministerial support and facilities.

I think that it will be helpful to summarise my involvement in matters which have been of interest to the committee to date.

I was in charge of HR when the fairness at work policy was developed and introduced in 2010. Members of the HR policy team led in the development, with regular dialogue with the trade unions, so, although the team led in the detailed development of the policy, I was aware of the general direction of the work, and would have been at the key meetings.

I was not directly involved in the development of the policy on the handling of harassment complaints involving current or former ministers. However, I was the individual who was asked, through that period, to take on the role to provide pastoral care to staff if required. To be clear, that role is different from the role of the confidential sounding board, which has been discussed at the committee previously.

I had some early contact with the two individuals who ultimately became complainants under the policy for the handling of harassment complaints. Other than that early initial contact, I had no involvement in the investigation.

As has been set out by others in previous weeks, I am giving evidence to the committee on behalf of ministers, and not in a personal capacity.

As the committee appreciates, this is complex legal territory, and, as I have explained, I am privy to certain information that was the subject of legal proceedings and the confidentiality of which is now protected. I ask the committee's patience when I am cautious in answering questions on certain matters, if I have to stop and seek advice or follow up questions in writing, with detail, to ensure accuracy and to ensure that all the Government's legal duties are fulfilled.

In line with the approach of other attendees, I declare that I am a member of the FDA union.

**Margaret Mitchell:** Ms Allison, when you were head of HR, as some people have kept referring to it—also known as director of people—from 2009 to 2016, were any harassment concerns or informal harassment complaints against ministers, including the former First Minister, raised with you under the new 2010 fairness at work policy, in the period from 2010 to 2014?

**Barbara Allison:** I was aware not of specific complaints, but of issues that had been raised through the trade unions. I was not aware of any specific complaints.

**Margaret Mitchell:** Under the fairness at work policy, if a complaint that was passed to you as head of HR—or director of people—could not be resolved informally, and was put in writing, it had to be passed to the permanent secretary or the Deputy First Minister. Were any complaints put in writing?

**Barbara Allison:** No.

**Margaret Mitchell:** In that case, did you escalate to the permanent secretary, Peter Housden, or to the Deputy First Minister, Nicola Sturgeon, any of those harassment concerns or informal complaints?

**Barbara Allison:** No.

**Margaret Mitchell:** Did you ever discuss or use any other form of communication to informally make the Deputy First Minister aware of any harassment concerns or informal complaints in that period from 2010 to 2014? We know from Sir Peter Housden's evidence that there was a prevailing culture of bullying behaviour, and a level of concern about that culture as it prevailed.

**Barbara Allison:** Perhaps it would be helpful if I was absolutely clear: I was not aware of any issues about sexual harassment. I would like to be clear about that. I did not raise any issues about bullying and harassment with either the permanent secretary or the Deputy First Minister.

**Alex Cole-Hamilton:** Thank you for meeting the committee today.

Sir Peter Housden revealed that office life in Alex Salmond's inner sanctum was often

punctuated by incidents of bullying behaviour—that was the word that he used to describe it—by Mr Salmond and that he would seek to handle those issues on an informal basis. Did he ever discuss his approach to those problems with you as director of people?

**Barbara Allison:** No.

**Alex Cole-Hamilton:** Do you recall a time when he raised those behaviours directly with the Deputy First Minister—were you aware of that?

**Barbara Allison:** No.

**Alex Cole-Hamilton:** Were you aware of an organisational scuttlebutt on concerns about Mr Salmond's bullying, or other, behaviour?

**Barbara Allison:** I was aware that Mr Salmond could be demanding and difficult to work for. He expected high standards and if he did not get that, he would express his displeasure. In fairness, people also expressed that they enjoyed working for him—he was visionary and dynamic and it could be a bit of a rollercoaster—there were lots of shades of grey. As I said, there were rumours that he was demanding and difficult, but people had different experiences of working with him.

**Alex Cole-Hamilton:** For clarity, is it correct to say that you never heard any kind of rumour about sexual misconduct on the part of Alex Salmond?

**Barbara Allison:** Absolutely not.

**Alex Cole-Hamilton:** I will move on to your role as a pastoral care officer for the complainers. I am glad to hear that such a post was put in place to help them. You said that you had early contact with people who would go on to make complaints under the new procedure. When did you first learn about their allegations? Was it during your role as director of people, or was it much later when the procedure was instituted and they raised those complaints?

**Barbara Allison:** I will watch the convener to make sure that she intervenes if she feels it is necessary.

I was aware of nothing at all about any allegations of sexual harassment until 2017.

**Alex Cole-Hamilton:** Okay, so that is when you first learned of that.

I will take a break after the next question to let other members in, but I have a few follow-ups.

For clarity, in your chalkface role of the day-to-day management of people in the organisation, were you ever aware of informal circumstances where people were moved around or where working practices were changed because of friction with Mr Salmond?

**Barbara Allison:** No, at the time I was not aware of that. I have subsequently become aware that arrangements were put in place, but I was not aware of that at the time. Having said that, moving people is an appropriate way to deal with issues if people are not getting on. Sir Peter Housden mentioned what I would call chemistry. I think that it is very important that there is good chemistry between ministers and their private offices and that they gel well. If it was appropriate to move someone on an informal basis, either in the private office or another area, I think that that would be perfectly appropriate.

**Alex Cole-Hamilton:** That is it for now.

**Alison Johnstone:** You have highlighted your own early involvement with the complainants. We heard in earlier evidence sessions that a complainant was party to an early sight of a draft procedure. When you were in post as director of people, would it have been typical to have shared draft HR policies with individuals?

**Barbara Allison:** We certainly would engage widely with trade unions and our staff networks—we have networks around LGBTI, race, disability and so on—and we would share drafts with them. I am not aware that the draft policy was shared with any particular individuals. Certainly, we would want to make sure that we were taking the views of staff widely on any policies.

**Alison Johnstone:** Would it be quite unusual to share a draft policy with a specific individual? Other than the aspects that you have highlighted, would there be a reason why an individual was chosen?

**Barbara Allison:** My understanding of why it was shared in this case was to determine whether, had the policy and procedure been in place at the time, it would have helped in terms of raising an issue—that is, would it have made a difference.

**Alison Johnstone:** You have said that you were aware of issues being raised but that no formal complaints were made. Do you have any concerns that staff were reluctant to take that next step?

In our earlier session with Mr Housden, he made the quite reasonable point that a person would not always want to take that step were it unnecessary, but there seems to be a culture in which there is a great focus on informal means of addressing issues—for example, by moving staff. Do you feel that there was enough support for staff who felt that they may want to go further?

**Barbara Allison:** Our statistics for formal complaints raised are low. That may then lead you to believe that people are reluctant to complain. I am a great believer in informal resolution, and I am slightly concerned that some people might feel

that that is an easy option. You can get in early to resolve an issue between two individuals, nip it in the bud and clarify matters—issues are often to do with a lack of communication or misunderstanding. The fairness at work policy supports that. A person can contact their line manager, to see whether they can resolve it; there can also be informal contact with HR. If they cannot resolve matters, you can progress on a formal basis.

I am a trained mediator and part of the mediation network that we use. I am a huge advocate of informal resolution. However, if the matter cannot be resolved, people must absolutely have recourse to a formal process.

**Alison Johnstone:** What is your view on the evidence of trade union representatives who suggested that it was often the individual who raised the complaint who was moved, and that, although that might manage an immediate concern, that approach failed to address wider issues in the organisation?

**Barbara Allison:** As you would imagine, I listened with great interest to the evidence of the trade unions. To be honest, when I was in HR, or as a line manager generally, it can be frustrating if people do not raise issues. I think that people very often want to go to the unions or come to a line manager to air things and do not necessarily want action taken. They want someone to hear them and to share an experience with.

As I said to Mr Cole-Hamilton, if there is an issue, the best thing is to resolve it. An answer may be to move people. I do not think that that is necessarily a bad option. As I said, that is being portrayed as wrong. Sometimes, if people are not getting on, you move someone. We work for a large organisation—there are more than 7,000 people in it and there are lots of opportunities. Someone being moved does not mean to say that that would be detrimental to their career.

**Alison Johnstone:** What are your views on the efficacy of a process that does not have an independent element? Mr Penman from the FDA was, I think, quite clear about the impact that the lack of an independent investigator has had. We understand the impact of that in our current work. What are your views on the lack of an independent investigator?

**Barbara Allison:** If there is an employment contract, ultimately, a person can go to an external employment tribunal. I think that there are a number of ways in which people can raise their issue and have it looked at, outwith the line but independently in the organisation. I think that, in the fullness of time, with the Laura Dunlop review and this committee's considerations, we will look at whether we need more independence.

When dealing with an employment situation, there are informal, formal and appeal mechanisms, and external appeal mechanisms. I would hope that there is sufficient impartiality in the organisation to ensure that people feel that they been dealt with impartially.

12:00

**Alison Johnstone:** During your time as director of people, did you feel that the fairness at work policy was fit for purpose, or was it clear to you that it had to be improved?

**Barbara Allison:** The dignity at work policy had come in in 2003 and had been updated in 2005 and 2007, and the fairness at work policy added a number of steps when it was brought in in 2010. It clarified unacceptable behaviour and the roles of the line manager and the countersigning manager, and it emphasised the importance of mediation and so on.

The people directorate was looking to review fairness at work in 2017, and I think that it is right that policies are reviewed over time, to ensure that they are still fit for purpose. As ever, with policies, timescales are an issue, given how long it takes to resolve things.

I think that the fairness at work policy, in and of itself, provides mechanisms to resolve issues. It is fit for purpose, but like any policy it should be reviewed at a point in time.

**The Convener:** Angela Constance has some questions on the same theme.

**Angela Constance:** Good morning, Ms Allison. Given your experience as a director of people over several years—from 2009 to 2016—do you have a view about the evidence that we heard from Peter Housden and his suggestion of an external independent process for dealing with complaints against ministers, such as a parliamentary standards commissioner? He said that that would not be a substitute for good HR practice and that there were issues around governance, accountability of ministers to Parliament and such like, but he felt that there could be significant merit in such a process, which could have a material effect—it could be a guarantor and a place of last resort. What are your views about an external independent process? How could that be made to work to good effect?

**Barbara Allison:** As Sir Peter said, the issue about governance and how such a process would work with the ministerial code and so on would be really important. I know that some of the work that the people directorate has started is looking at how our current policies work with the ministerial code. It would be important to understand how the processes would dovetail into one another.

Having been a minister yourself, you will know that the relationship between civil servants and ministers is really important. There is a lot of trust there. If an independent person was brought in, would that change the relationship? I do not know. It is certainly something that we would need to think carefully about; we would need to think about whether bringing in an independent person would have unintended consequences.

**Angela Constance:** What if it was a more tiered approach? Both you and Peter Housden have spoken about the value of informal processes. Then there are more formalised processes, and obviously there is the ministerial code. Is there a place, somewhere along the line and in some circumstances, for an external independent person?

**Barbara Allison:** There may well be. As you have rightly said, a number of informal and formal processes are already in place and, ultimately, there may be an independent one. In the fullness of time, we will be able to consider these things.

**Maureen Watt:** Sir Peter talked about meeting formally with the trade unions once or twice a year. Were you involved in those meetings? Did you have more informal interactions with the trade unions?

**Barbara Allison:** There was a twice-yearly partnership board meeting at which senior officials would meet with trade union officials, and we routinely had regular meetings with the trade unions, on a sort of formal basis. We also had reasonably regular informal contact. We had good, productive relationships, so if they were aware of issues, they were not usually shy about picking up the phone and making us aware of them.

**Maureen Watt:** Were you contacted by the trade unions about specific complaints against ministers?

**Barbara Allison:** Not specific ones—no.

**Maureen Watt:** In human resources, you never know whether an individual will go to their line manager first—in fact, the line manager might be the person they have problems with. Can you recall any situations in which you were contacted directly by anyone in the civil service in relation to their interaction with ministers?

**Barbara Allison:** Not in my role as director of people. More recently, in my role as director of communications, ministerial support and facilities services—to use my long title—I have been contacted by people who want to discuss with me their interactions with ministers.

**Maureen Watt:** That is since the former First Minister was in post.

**Barbara Allison:** Yes, it is.

**Maureen Watt:** The fairness at work policy and the ministerial code have been revised. Do you, as an HR person, think that they are currently fit for purpose, or is more revision required?

**Barbara Allison:** As I said to Ms Johnstone, the fairness at work policy has been in place since 2010 and it was slightly updated to take account of the new procedure. I think that it is absolutely right that it should be reviewed. A review was started in 2017 by the people directorate, which I know did a lot of work on what that might look like, but it has been halted. It is perfectly appropriate that it is reviewed in due course.

**Maureen Watt:** Is it now standard in organisations that policies are made retrospective, in so far as they can cover former complaints?

**Barbara Allison:** I think that, as Sir Peter said, since 2017 people will have been reviewing policies to ensure that, if staff want to raise complaints or issues, they are able to do so and that there is nothing in a policy that would stop them doing that. I think that that is very important.

**Maureen Watt:** Thank you.

**Jackie Baillie:** Good afternoon, Mrs Allison. Let me make that clear at the start that I am not interested in talking about individuals, and I am happy to take short and direct answers.

Were you involved in the Edinburgh airport press inquiry? Can you recall the date? What was your role?

**Barbara Allison:** I am aware of staff being approached about the Edinburgh airport incident—sorry, I am not trying to be difficult. I am aware that, at the start of November 2017, we were conscious that there was a potential press inquiry about Edinburgh airport.

**Jackie Baillie:** Can you remember what date in November that was?

**Barbara Allison:** I think that it was—

**Jackie Baillie:** If I said 6 November, would that—

**Barbara Allison:** That is what I was going to say.

**Jackie Baillie:** What was your role? You became aware, but what was your role?

**Barbara Allison:** My role was that two members of staff contacted me to let me know that they had been contacted about a potential press inquiry.

**Jackie Baillie:** Thank you. I understand that you were appointed to a special role by the current permanent secretary. What was that role and when were you appointed?

**Barbara Allison:** It was a pastoral care role. I got a letter from the permanent secretary on 11 November 2017. The purpose of the role was twofold. First, a number of people had been contacted by the press and the permanent secretary was keen that they be given appropriate support, if required. Secondly, we were conscious that, as a result of the staff messages that the permanent secretary had issued, some people had come forward. Because of my responsibilities at the time, it was likely that people from the current private office or comms might come forward, so she asked me if I would add some support, point them towards available support mechanisms and make HR aware of any issues.

**Jackie Baillie:** So, between 6 and 11 November, you must have alerted the permanent secretary to the fact that staff members had approached you about Edinburgh airport. Can you recall when you did that?

**Barbara Allison:** I do not think that I made the permanent secretary aware of the Edinburgh airport issue; I think that somebody else did.

**Jackie Baillie:** You have no recollection of telling her. Did you tell somebody else to tell her?

**Barbara Allison:** I think that she was contacted by somebody else.

**Jackie Baillie:** Okay. Thank you very much.

I want to touch on the judicial review and the commission of documents in December 2018. Did you appear before the commission?

**Barbara Allison:** I did.

**Jackie Baillie:** Did you have to speak to the commission about documents, text messages or anything that you were involved in?

**Barbara Allison:** Yes. I spoke about text messages, in particular, and whether I had any documentation.

**Jackie Baillie:** Could you tell us what the text messages showed?

**Barbara Allison:** I am just checking with the convener.

That was in connection with my early contact with one of the people who ultimately became a complainant. There was text correspondence between us at the time.

**Jackie Baillie:** Did you text the permanent secretary to warn her about a potential complaint being made?

**Barbara Allison:** I did not text the permanent secretary; I spoke to her.

**Jackie Baillie:** When was that? I just want a feel for the timeline.

**Barbara Allison:** I spoke to the permanent secretary on 9 November.

At that point, a concern had been raised, but there was no complaint. I am sorry, but I want to be absolutely clear.

**Jackie Baillie:** To be honest, we have covered this before. To me, when we are talking about serious misconduct, concerns and complaints are one and the same. You would agree with that, would you not?

**Barbara Allison:** I am very conscious that it did not become a complaint until later.

**Jackie Baillie:** I get that, but the seriousness of the issue makes it something different.

I want to get the chronology right. You knew about the press story relating to Edinburgh airport on 6 November.

**Barbara Allison:** Yes.

**Jackie Baillie:** You had a discussion with the permanent secretary on 9 November.

**Barbara Allison:** Yes.

**Jackie Baillie:** You were then appointed on 11 November to your new pastoral care role.

**Barbara Allison:** Pastoral care was just an adjunct to my current role.

**Jackie Baillie:** I understand that. I just want to get the timeline right.

I want to look a bit further ahead. I have two final questions. By the time we get to August 2018, a police investigation was under way. I think that you would probably agree that it would have been inappropriate for anybody to have been in contact with potential witnesses or former civil servants. Did you have any such contact? Were you encouraged to email anybody?

**Barbara Allison:** No.

**Jackie Baillie:** That is helpful to know.

We have heard about text messages. Last week, my colleague Murdo Fraser asked about a text message from the permanent secretary that was sent in January 2019. It said:

“We may have lost the battle, but we will win the war.”

Was that message to you?

**Barbara Allison:** No.

**Jackie Baillie:** It was not to you. You did not receive such a text message. That is interesting. Did you have any discussion with the permanent secretary about that afterwards?

**Barbara Allison:** No.

**Jackie Baillie:** Thank you very much.

**Dr Allan:** You have touched on the pastoral support that you provided and how that became a new part of your role. The committee has received correspondence that describes how that pastoral support was provided, particularly in the private office and in communications at various points. Can you explain how that role worked?

**Barbara Allison:** Do you mean the pastoral care role?

**Dr Allan:** Yes.

**Barbara Allison:** The permanent secretary wanted to ensure that, if people had concerns about anything that was coming out in the media, they had somebody to go to. My physical location in St Andrews house is beside where most of the communications staff work and is one floor down from a lot of the private office, so I was physically available if people wanted to pop in for a chat. It was about ensuring that people had somebody that they knew they could talk to if they needed additional support.

**Dr Allan:** You mentioned the press, or the media side of this. If you were providing pastoral support at the same time as, it would appear, dealing to some extent with media inquiries, how did that work? How did those two things relate to each other?

12:15

**Barbara Allison:** We had a media team, so they would have picked up any media inquiries. The pastoral care role was really about making sure that individuals had somebody to come to if they wanted to raise—

**Dr Allan:** So if somebody was approached by the press, your role was to provide assurances to them rather than to the press.

**Barbara Allison:** Yes. On occasion, people who were approached by the press would be anxious about how they should respond, so they would be given advice about whether they had to respond and so on. That was general support to staff on media handling. The pastoral care role was to be there in case anybody wanted to say, “I am concerned that things are coming out; this feels tough, so where can I go for support?” You would mention trade unions, the welfare officer and the employee assistance programme and so on.

**Dr Allan:** I will ask about a more general point that came up in conversation with Sir Peter Housden concerning the apparent mismatch, as the years went on, between the concerns expressed in the staff survey and—this is the point that was raised with Sir Peter—the relatively low number of people who were willing to come forward to make complaints. During your

involvement, did you feel that, as things went on, the civil service was learning from that difficult situation and was in any way overcoming some of the obstacles that stand in the way of people making such complaints?

**Barbara Allison:** There are a range of ways in which people can raise issues. Going formal is quite a significant thing to do, but we have worked really hard to make sure that people have a lot of support. Peter Housden mentioned monthly conversations. We also have networks, and people have mentors, line managers, trade unions and so on, so there are a number of ways in which people can get support individually if they feel that they want to discuss anything. It is an area that, over the years, in relation to our culture, successive permanent secretaries have invested heavily in, to create a much more supportive environment.

**The Convener:** Before we move to Murdo Fraser, I have a question. We have heard, over the weeks, about a sounding board that was in place. Was that the same role as the pastoral care role, or was it completely separate?

**Barbara Allison:** That was a separate role. They were both set up at the same time, but that was a separate role. I understand that a number of people approached the person who was in that role, but I was not involved in that.

**Murdo Fraser:** I am happy to pass on to others, to save time, given that other members have covered the territory that I was going to raise.

**The Convener:** Thank you very much for that. A couple of members are anxious to come back in.

**Alex Cole-Hamilton:** I am conscious that others have maybe not had an opportunity to ask questions for the first time, so do they want to come in first? Oh, you have all been.

**The Convener:** I am glad that your colleagues are memorable to you.

**Alex Cole-Hamilton:** I apologise. Thank you very much for bringing me back in, convener.

I am keen to explore further Barbara Allison's role as the pastoral care support for the people who would go on to lodge formal complaints. When you were supporting them, did you ever get the impression that they had been encouraged by other civil servants to formalise their complaints?

**Barbara Allison:** If you are talking about the two individuals specifically, I had very early and very limited contact with one and slightly more contact with the second. In effect, I spoke to them and then handed them over, as appropriate, to HR so that it was aware of the issues. There was no suggestion that they were being encouraged to come forward.

**Alex Cole-Hamilton:** After the collapse of the judicial review—and, thereby, the collapse of the investigation—did you continue to support them in any way?

**Barbara Allison:** I have had no contact with one since November 2017 and no contact with the other since the middle of January 2018.

**Alex Cole-Hamilton:** So, you had some contact after the judicial review judgment.

**Dr Allan:** No, this was a year earlier.

**Alex Cole-Hamilton:** My apologies—of course it was. The reason why I ask is that the procedure clearly failed the very people whom it was designed to serve. It left women exposed and denied any recognition or sense of justice. It is important that this committee understands the impact that that would have on the women. I am concerned to hear that your pastoral role stopped at that point. What kind of pastoral support was offered to the women after the collapse of the judicial review?

**Barbara Allison:** It would not have been appropriate for me to have continued my contact with them beyond the initial contact that I had. I was, therefore, not involved with the on-going support for them. I imagine that colleagues in the people directorate would have dealt with that.

**Alex Cole-Hamilton:** And you are not aware that any pastoral officer was formally appointed to them to support them in the aftermath.

**Barbara Allison:** I was not involved in that amount of detail.

**The Convener:** To be clear, there are times when committee members are giving their view of a situation rather than asking a question.

Jackie Baillie has a supplementary question.

**Jackie Baillie:** Yes, and it is not a view; it is a question.

Ms Allison, I forgot to ask you earlier whether you had had any interaction with special advisers since November 2017. If so, could you detail it?

**Barbara Allison:** Although special advisers are appointed by the First Minister for their board and lodgings, if you like, they fall within my remit, so I would have had regular contact with them.

**Jackie Baillie:** Have you had any contact about the issues before us—the policy, the judicial review or any complaints—since November 2017?

**Barbara Allison:** I have had no interaction with regard to the policy development. I do not remember any contact in relation to the judicial review.



**Jackie Baillie:** So, prior to the commission of documents that you spoke at, there was nothing. I recognise that memory has been an issue for the committee, but it is quite an important issue. If you could recall, that would be helpful.

**Barbara Allison:** I do not remember any interaction on the specifics of the investigation or the development.

**Jackie Baillie:** Was there anything about the generalities of the investigation and the development? Any conversations at all?

**Barbara Allison:** There would have been conversations with special advisers on occasion, yes.

**Jackie Baillie:** So, even if it was only the water-cooler moments that my colleague Alex Cole-Hamilton referred to, there was some discussion. There might not have been detailed discussions, but there were general discussions.

**Barbara Allison:** Not about the specifics of any of the allegations.

**Jackie Baillie:** No, but generally. I am trying to be as helpful as I can be. There were no discussions about the specific allegations, but there were discussions generally about what was going on during that period in relation to the policy, the judicial review and so on.

**Barbara Allison:** Yes, I would be in meetings at which special advisers would be present.

**Jackie Baillie:** Did you have any knowledge of rotas being changed in any part of either the private offices or anything associated with ministers?

**Barbara Allison:** I was not aware of anything at the time, but I have subsequently become aware of that.

**Jackie Baillie:** Thank you very much.

**Margaret Mitchell:** Ms Allison, you mentioned that you had twice-yearly meetings with the trade unions and the partnership board and regular meetings with the union members. Were you aware of why the unions insisted that the revised fairness at work policy should include ministers?

**Barbara Allison:** The unions said to us at the time—and in their evidence—that, over a number of years, before the 2010 policy, their members had raised general concerns but they had had no specific concerns. The unions did not raise anything specific with us, but my understanding was that, over a number of years, issues had been raised.

**Margaret Mitchell:** Without being more specific, was the issue about the behaviour in ministerial offices?

**Barbara Allison:** I would not say that it was about behaviour in ministerial offices, because it might have been about policy officials; it would not necessarily have been in connection with private offices.

**Margaret Mitchell:** Right. I will need to go back, because it was my understanding that the unions had raised concerns about ministerial office behaviour, which was why they insisted that ministers would be covered by the fairness at work policy—because of concerns raised with them by their union members.

**Barbara Allison:** My understanding and recollection is that they were general concerns about ministers' behaviour. I am not sure that I could confirm that the issue was about private offices.

**Margaret Mitchell:** Therefore, it was about ministers' behaviour. Did you alert the permanent secretary or the Deputy First Minister about the concerns that the unions had raised?

**Barbara Allison:** There was nothing specific to alert the permanent secretary to. The unions were raising general concerns; there was nothing specific.

**Margaret Mitchell:** Do you not think that the permanent secretary and the Deputy First Minister should have been made aware? You had a duty of care for those civil servants.

**Barbara Allison:** To be clear, we introduced the ministers into the 2010 policy on the back of general concerns that were being raised. The permanent secretary was clearly aware, because he was required to agree to the policy; he spoke to the First Minister at the time, in order to bring that policy into play. That was done in advance of the 2010 policy coming into play. The permanent secretary was aware that we were changing the policy, and the permanent secretary raised that with the First Minister at the time.

**Margaret Mitchell:** The matter was raised with the First Minister but you did not think it appropriate then to raise it with the Deputy First Minister, although, under the revised fairness at work policy, had there been a written complaint, you would have done so. I think that that was a stumbling block and a huge obstacle to people taking their complaints forward. Do you not think that it would have been appropriate to raise the matter with her?

**Barbara Allison:** We had no specific complaints to raise with the Deputy First Minister.

**Margaret Mitchell:** Did they have to be specific complaints? General complaints had been raised with the unions about behaviour in ministerial offices.

**Barbara Allison:** I think that, if I had gone to the Deputy First Minister and said, "We have got general complaints," she would have wanted some specifics. We were not getting anything specific coming forward.

**Margaret Mitchell:** Did it concern you that people felt that they could raise those complaints with their unions but could not come to the people whom they might have expected to have a duty of care and be there with a policy to support them?

**Barbara Allison:** The unions, like us, were concerned about whether people were not coming forward with issues, but it is up to the individual to decide how they want to deal with it. Dave Penman was articulate in saying that people want to come and talk to them but that it is up to the individual whether they want to make a formal complaint. If the unions were not getting specifics, they were not getting anything to raise with us; therefore, there is nothing that we could take forward.

**Margaret Mitchell:** Thank you.

**The Convener:** That concludes the question session. I thank Barbara Allison for her evidence.

12:29

*Meeting continued in private until 12:56.*

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.

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