

STANDARDS COMMITTEE

Tuesday 9 September 2003
(*Morning*)

Session 2

£5.00

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CONTENTS

Tuesday 9 September 2003

	Col.
INTERESTS	39
ITEMS IN PRIVATE.....	39
COMPLAINT	40

STANDARDS COMMITTEE

5th Meeting 2003, Session 2

DEPUTY CONVENER

*Mr Kenneth Macintosh (Eastwood) (Lab)

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)

*Alex Fergusson (Galloway and Upper Nithsdale) (Con)

*Donald Gorrie (Central Scotland) (LD)

*Alex Neil (Central Scotland) (SNP)

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE SUBSTITUTES

*Alasdair Morgan (South of Scotland) (SNP)

Lord James Douglas-Hamilton (Lothians) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Dorothy-Grace Elder

Mr Kenny MacAskill (Lothians) (SNP)

Tricia Marwick (Mid Scotland and Fife) (SNP)

John McAllion

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

Committee Room 1

Scottish Parliament

Standards Committee

Tuesday 9 September 2003

(Morning)

[THE DEPUTY CONVENER *opened the meeting at 10:01*]

Interests

The Deputy Convener (Mr Kenneth Macintosh): Good morning and welcome to the fifth meeting in session 2 of the Standards Committee. I remind everyone to ensure that their mobile phones are switched off. I extend a warm welcome to Alasdair Morgan MSP, who joins us today as a committee substitute. I invite him to declare any registrable interests.

Alasdair Morgan (South of Scotland) (SNP): I have no interests to declare.

Items in Private

10:02

The Deputy Convener: Today we will consider a complaint against Kenny MacAskill and Tricia Marwick. At our meeting on 25 June 2003, the committee agreed to conduct its own investigation into the complaint before reaching a final judgment on the report produced by the acting Scottish parliamentary standards commissioner. As part of that investigation, we will hear evidence from several individuals this morning. However, before we proceed to the evidence taking, we must decide how to take items 4 and 6. Item 4 is a review of the evidence that we have heard and consideration of lines of questioning. Item 6 is a discussion on how to take forward our investigation. I propose that both items be taken in private. Do members agree to that proposal?

Members indicated agreement.

Complaint

10:03

The Deputy Convener: We now move on to the main business this morning. The committee will take evidence from four people, in the following order: Dorothy-Grace Elder, the complainer; John McAllion, former convener of the Public Petitions Committee; and Kenny MacAskill and Tricia Marwick, who are the subjects of the complaint.

As agreed at our meeting in June, we will require witnesses to take the oath or make an affirmation. Witnesses will be then given the opportunity to make a short statement before the meeting is opened up to questions from committee members.

I welcome Dorothy-Grace Elder and her husband, Mr Welsh. I thank him for coming along as Dorothy-Grace Elder's adviser—

Dorothy-Grace Elder: I am glad that you have pointed out that he is my husband and not my adviser, because after 25 years he has given up advising me. He will pass me papers.

The Deputy Convener: It has been decided that you should give evidence under oath, as I can require you to do under rule 12.4.2 of the standing orders. I remind you that you are here by invitation and that you are not required to answer any questions.

DOROTHY-GRACE ELDER *took the oath.*

The Deputy Convener: I invite Dorothy-Grace Elder to make an opening statement before we move to questions from the committee.

Dorothy-Grace Elder: The case is all about dirty tricks in politics harming the public. I hope that such dirty tricks, which are confined to a minority, can be stopped.

My last piece of work as an MSP was a major health report. During work on it, part of my research and, much worse, the public's private health records were snatched by Tricia Marwick and Kenny MacAskill, who never returned any of my work—I have not had it back to this day.

People who complain about MSPs are not allowed to see the commissioner's report to check for errors—only MSPs can do that. That means that, in theory anyway, an error could clear an MSP. I still know only the commissioner's conclusions. Had the new Standards Committee not decided to conduct its own inquiry, key evidence would not have come out.

Let me make it clear that, in general, conduct is very good in the Parliament. However, if Ms

Marwick and Mr MacAskill get away with what they have done, every workplace might be vulnerable to files being snatched—any troublemaker will be able to point to the Scottish Parliament and say, “MSPs get away with it.” Withholding the property of others and refusing to return it is, outside the Parliament, usually called theft. Does this mean that there is one law for MSPs and another for the public? A Parliament worker would almost certainly have been sacked for gross industrial misconduct.

I do not think that it is right that anyone who lodges a complaint against an MSP should be subjected to character assassination as revenge. On June 25, Ms Marwick, who is the convener of the Standards Committee, vilified me on the public record in a long rant of personal abuse, while I had to remain silent. The implication of what she said was that if someone complains about an MSP they will suffer character assassination. However, I do not think that every MSP feels like that.

I will now explain what happened. I was appointed in December 2002 by the Public Petitions Committee to conduct a health inquiry into the village of Blairingone. The Blairingone saga was a prestige issue for the Parliament, because that one small village changed the law to ban the spreading of raw sewage and abattoir waste on farm land. In doing so, the village has done a great thing for the protection of public health and the whole food chain. I am sure that John McAllion, the former convener of the Public Petitions Committee, will be able to set out the background much better than I can.

Six years of effort were required from the villagers. George Reid, who had been very active on the matter, asked me to take on the extra work. I knew that I had to do the Blairingone investigation in about half the time that a committee reporter usually gets, because it had to be published by the end of the parliamentary session on 31 March; if it had not been, the villagers' case could have gone into limbo in a new session of Parliament. It was beat-the-clock time.

I compiled a health questionnaire and personally took it round the village with my assistant, Evelyn McKechnie, in mid-December. I urged villagers to fill in their private health details, in confidence, to get a fair picture of what the villagers' state of health was really like. The material also included private health records from a doctor. Those were among the papers seized by the two MSPs, Tricia Marwick and Kenny MacAskill, in what I thought was an utterly disgraceful act. They had nothing to do with the Blairingone issue. I am afraid that their motive was personal malice. We should not get so carried away in politics that we feel like that about people. This is a Parliament, not a playground for school bullies, the pompous or the petty.

I approached the Scottish National Party researcher Mary Spowart only because she had worked on the Blairingone issue for George Reid, who said that she had done a great job. I contacted her, as I contacted all the MSPs—and their staff—who had ever been involved in the Blairingone issue. As members know, committee reporters usually do that. I asked Mary Spowart to look over my work confidentially, in her own time, because I had to know whether I was taking the case forward. I pay tribute to Mary Spowart and to all Parliament researchers, who have real enthusiasm for public causes. However, those two MSPs suddenly sacked Ms Spowart, for reasons unconnected with me, raided her desk and seized my paperwork.

The commissioner's conclusions are astonishing. I never got my paperwork back. I think that, unfortunately, his conclusions are based on error and supposition. They also ignore the public interest—which should have been paramount in the matter—in favour of the MSPs' personal interests. He concludes that my committee work could be withheld by the two MSPs, claiming that it was the “resulting product” of their researcher. If committee members see the evidence—I implore them to examine it in detail—they will realise that that conclusion is impossible. How on earth could 44 six-page health questionnaires, with my name and Glasgow address on them, which were devised and written by me in Glasgow—I have computer proof of all that, as well as witnesses—be the resulting product of anyone other than me? John McAllion, the former convener of the Public Petitions Committee, will be able to say that I thought up the idea of doing that.

The commissioner has also cleared Tricia Marwick and Kenny MacAskill on the basis that they claimed that they needed the papers as possible evidence against their ex-employee. Where she came into the matter, I do not know. I went to the lady as a committee reporter, as MSPs have a right to do with everybody. However, I doubt whether the commissioner checked out the employment-case tale. I did. Ms Marwick stated that she and Mr MacAskill faced an employment appeal and a potential industrial tribunal. I can reveal that Ms Spowart's appeal against her dismissal was over on 21 February. However, the point-blank refusals to return my committee papers continued and I had to start redoing some of the work.

Ms Marwick and Mr MacAskill knew from 21 February that Ms Spowart had agreed to a private settlement at an appeal against her dismissal. That appeal was adjudicated by Ian Macnicol, the Parliament's head of personnel. Ms Spowart agreed at that meeting to the private settlement. I have a letter with me from the Scottish organiser

of the National Union of Journalists, Mr Paul Holleran, who is her union representative. He writes:

"I explained to Mr Macnicol that the two MSPs had breached all procedures in the manner in which they had dismissed Ms Spowart. Our claim was upheld and Ms Spowart agreed to a private settlement, which would thus avoid the need for an industrial tribunal or other action."

Did the MSPs use the Blairingone material as evidence? That meeting was critical. No, they used none of it. Mr Holleran writes:

"Prior to the meeting on February 21, documents were supplied to me by legal representatives of Ms Marwick and Mr MacAskill. These papers contained alleged evidence against Ms Spowart. These productions did not include Public Petitions documents or health questionnaires relating to your Blairingone Report work. The paperwork supplied related to specific issues"

which were nothing to do with my case.

"Furthermore, none of the Public Petitions Committee or health study material was produced at our meeting with Mr Macnicol on February 21."

That was that.

However, Ms Marwick and Mr MacAskill continued their refusals thereafter. All the letters that this committee has seen were written after 21 February. In late March, the two MSPs continued to harass me as I left the Parliament. They wrote accusing me of contributing to Ms Spowart's dismissal—a dreadful accusation—just because I had contacted her as a committee reporter. I have with me an e-mail from the Parliament—it is private; it is for this committee only—which confirms that my contact with Ms Spowart was not an issue in her dismissal or appeal.

Although Ms Marwick and Mr MacAskill claimed falsely that they had to withhold my paperwork as evidence in some great case that might be hanging over their heads, when it came to the moment of truth with officials and the union, they did not produce my paperwork. I am afraid that they were playing a dirty double game. They persuaded the commissioner that they needed the papers as evidence but knew that they had not used them when asked to produce evidence—they had used other stuff. They relied on the fact that all the meetings were in private and that that might never have been found out. They could not use the papers. Once the papers were on the table, they would not have been able to claim that the work was their researcher's, as it had my name all over it.

On 22 February—the day after Ms Marwick and Mr MacAskill had started to move towards a behind-the-scenes settlement about which none of us knew at the time—Ms Marwick kept up the pretence about denying my committee its paperwork. On that day, she sent an e-mail to the clerk to the Public Petitions Committee, claiming:

"I ... can find no evidence that any of the material was generated from Dorothy-Grace Elder or her staff".

That was, of course, quite outrageously untrue—I think of all the work that my staff and I did right through that Christmas. Ms Marwick added:

"We will therefore retain all the material relating to Blairingone."

Ms Marwick and Mr MacAskill were acting like school bullies playing a cruel game of finders keepers, with the innocent Blairingone public as the victims. I was not to get my work back so that my report might be harmed and might not even make it to the end of the parliamentary session, which, as I said, could have meant that the villagers' case would go into limbo in the new session.

10:15

The two have also claimed that they would not have permitted a member of their staff to communicate with me because I had left the SNP. However, committee reporters are totally non-party political. Staff are not chattels; MSPs have staff only because the public pay for them. Ms Spowart did positive work on the statistics and the poor woman has been kicked round the block since. She did the right thing in trying to help the committee and I shouldered a big burden on the report. Only Ms Marwick and Mr MacAskill caused harm.

I did not know just how deceptive they had been at the time. While they held on to my work needlessly, I sometimes had to do 30 hours at a time to beat the clock. I faced what was like the aftermath of a burglary, in which I did not quite know what was missing. They kept on refusing requests to give me my work. That was all after 21 February. They refused requests by Steve Farrell, the clerk to the Public Petitions Committee, and John McAllion, the convener. They refused George Reid. They refused the Parliament's head of security and then they refused Sir David Steel, the Presiding Officer. The committee should consider the rudeness in some of those letters. Despite that, the commissioner has cleared Ms Marwick and Mr MacAskill of rudeness and discourtesy.

Sir David Steel asked on 4 March for a compromise. He requested that Ms Marwick and Mr MacAskill make photocopies of the papers so that I could at least finish my work and that we later sort out any other problems that we had. They refused even that. Note that Mr MacAskill's bizarre reason was that they were now in communication with the commissioner—it was no longer anything about an employment appeal. I ask the committee to ask Ms Marwick and Mr MacAskill whether they told the commissioner that

the Presiding Officer had now intervened. Were they inferring that the commissioner would tell them to refuse such a reasonable request? It was total obstruction all the way.

Ms Marwick and Mr MacAskill also refused discussion. The head of security in the Parliament—an awfully polite man, as everybody knows—approached Ms Marwick but had to report back to me and the clerk that discussion was impossible: Ms Marwick had started to yell and shout at him.

While Parliament officials were wasting their valuable time and I was running round frantically trying to make up for what was missing, those two MSPs knew that the paperwork was useless to them, although vital to my committee. At no stage did they show any regard for the “Code of Conduct for Members of the Scottish Parliament”, which states:

“Members’ primary duty is to act in the interests of the Scottish people and their Parliament.”

Section 2.6 states:

“Members have a duty to take decisions solely in terms of the public interest.”

Section 9.4 states that private committee documents must not be shown to other MSPs

“who are not members of the Committee ... for whom the material was intended.”

That is why I had to check the material with Ms Spowart. I could not even go to the trusted George Reid, because he would not have looked at private committee documents once they had been filled in—he is a stickler for the rules, as the committee knows

I think that Ms Marwick and Mr MacAskill also broke European convention on human rights provisions on privacy of correspondence and I believe that they have broken section 55 of the Data Protection Act 1998, which states:

“A person must not knowingly or recklessly, without the consent of the data controller ... obtain or disclose personal data”.

The personal data are the health records of people who had given them in trust to the Parliament.

I have been through dirty tricks before. That was when I was a member of the SNP group. I left that group because a campaign that I was running for 550,000 chronic pain patients was about to be harmed. I had to become an independent MSP to protect that campaign. Sadly, Ms Marwick and Mr MacAskill come from a culture of bullying and arrogance. I must emphasise that that culture is practised by only a few in the group. There are many excellent people in the SNP group.

The people of Blairingone in particular need not only an abject apology, but reassurance that the

Parliament will not tolerate dirty tricks harming work for the public. Those people had much respect for the Parliament. The Parliament had lots of bad publicity, but we would always say, “Look, we did well on the Blairingone issue. You couldn’t have managed that under Westminster.” The people of Blairingone spent six years on their case.

When my committee’s report only just made it to publication on 31 March, the last day of the parliamentary session, George Reid e-mailed me to say:

“You have done an extraordinary job in the time. The village—and all Scotland—are in your debt.”

That is not quite true, because Scotland is in the village’s debt: the Blairingone and Saline Action Group has changed the law. It has really achieved something. It has protected people. It has even protected the whisky industry, which was worried about the fields being spread with raw sewage. That practice has been banned in Scotland, which is a tremendous achievement. Those people should have been the last to become the innocent victims of a dirty trick.

I am happy to take questions, if the committee has any.

The Deputy Convener: Thank you very much. I will open the floor to questions in a moment, but I will kick off. All the questionnaires in the disputed file appear to be photocopies. Where are the originals?

Dorothy-Grace Elder: I asked for an evidence check in March, because corroboration is normal, especially if somebody has had evidence for seven weeks, but the commissioner would not give me an evidence check at that time. Committee members will know that I had to hire a lawyer and push for an evidence check. Thanks to the Standards Committee, I got an evidence check last week, five months after I had first asked for it. There were one or two magazine pieces that I had collected from the Scottish Environment Protection Agency but what I saw, in my hurried check, were photocopies. Moreover, in my opinion, the photocopies were far too clean. The documents could have been photocopied at any time after they were seized. I am not naming names because I am not a forensic expert. However, doubts occur when people are allowed to keep documents for such a long time.

The Deputy Convener: I want to clarify what you have said. Whether or not you have questions about the documents now, were the documents that were handed over to the commissioner photocopies?

Dorothy-Grace Elder: Yes—the documents that were handed over by the MSPs.

The Deputy Convener: So were the questionnaires that were in the office of Mrs Marwick and Mr MacAskill photocopies?

Dorothy-Grace Elder: I do not know what the documents were like when they were in their office, but not all the documents were photocopies when they left my hands or those of the researcher Mary Spowart, who was looking over them. I do not know whether this is in the commissioner's report—as I am not allowed to see it—but I clearly told the commissioner that a minority of the health returns were originals and that I did not have any copies of the documents in the separate general research pile. There were some original documents in there—letters to me and planning documents, for example—but the photocopies in that separate part of the file were originals in the sense that I did not have copies of them.

The Deputy Convener: You said that a minority of the documents might have been originals. Therefore, the majority of the documents were photocopies.

Dorothy-Grace Elder: From what I remember, a large number of documents were photocopies.

The Deputy Convener: If the papers are photocopies, where are the original documents?

Dorothy-Grace Elder: At the time, I did not have a full set of the originals, which bugged me. I did not have a full set of health questionnaires, because towards the end of the process it became difficult to cope with the amount of photocopying.

The Deputy Convener: Did you have the majority of the original documents?

Dorothy-Grace Elder: I had a lot of the original documents, but not all of them. Because of their confidentiality, I had to get the health questionnaires back, no matter what form they were in. People had names, addresses and telephone numbers of innocent individuals who had handed over the documents. It would not have mattered whether I had 50 sets of health questionnaires. I also wanted to consider comments that people had made that were important to me as a committee reporter. I had written down a lot in little notes and in shorthand here and there—thank goodness—and there was material that was not as confidential. A doctor's report on patients that the patients had given permission for me to see was among the health questionnaires. Such documents must be returned.

The Deputy Convener: How did you manage to complete your report? Did you return to the original documents?

Dorothy-Grace Elder: I had the statistics and had taken many notes beforehand, thank

goodness. I am a massive note taker. However, I explained to the commissioner that I wanted to see all my work in front of me, as a committee reporter usually would. The process is like a big jigsaw; I told the commissioner that pieces of the jigsaw were missing. I need everything on the table before I start to write, discard and sort through things again—that inspires confidence that absolutely nothing has been missed. As you know, one does not start writing for hours. Everything should be in piles. We are talking about my work, which I needed in front of me.

Donald Gorrie (Central Scotland) (LD): I would like to pursue the same line of thought. If I were to oppose you in a confrontational argument, I might say that you finished your report without the papers in question and that therefore they were not essential to you. How would you counter that argument?

Dorothy-Grace Elder: I would be a bit angry with it. I realise that you are playing devil's advocate, but it is like saying, "Tough, it does not matter that your car was stolen this morning, you still managed to get to Perth by taxi and you weren't harmed," although perhaps £150 had to be paid to make the appointment in Perth. It is like saying, "It does not matter that your wallet's been nicked, because you can get some more money out of the cashline." That does not add up. Someone should not be able to lift someone else's stuff. That person may not know what is missing. The feeling is like being in the aftermath of a burglary.

The question whether I had forgotten something preyed on my mind all the time—there was brain-racking stress. Indeed, I did forget something. It was only when Steve Farrell and I finally went through the numbering of the papers on 25 March that—horrors—I realised that planning material that I had meant to include was missing. I said, "Oh, Steve, the planning bit's missing. I've forgotten it." He replied, "It's too late, Dorothy."

People suffer from the influence of such events. My staff were devastated by what happened. People said to me, "Walk away, Dorothy," but I could not do so. I thought of going to the press immediately, but wondered what use that would be—doing so would simply mean attacking the two MSPs. I did not want cheap satisfaction; I wanted my papers back. That is why I used the quiet, parliamentary route all the way. It was only when all the requests from people were turned down that I lodged a standards case and went to the police. There was a feeling of terrible insecurity in being left in that situation and having to do a committee report with the clock ticking. I had no second chance; I was not coming back into the Parliament.

Alex Neil (Central Scotland) (SNP): I want to try to round up what you have said. How much of

the jigsaw was missing, and how essential were the missing parts of the jigsaw that you have described?

Dorothy-Grace Elder: It was essential to know that I was not missing anything. We had to start downloading stuff. There was European Community material that I had painfully collected and American Academy of Sciences material, which I have still failed to download entirely as it is so huge. I had to get more material in case something was missing. There were many papers and things that I should have had in front of me, such as a letter from one of the contractors.

I had a mountain of entirely separate stuff, too. I was working at night long before the calamity happened. I could do the work only at home in Glasgow. George, my husband, knows that I would sit at 3 o'clock in the morning before the calamity to progress matters. The report is a big Stationery Office report. George Reid and Andy Kerr had gone before me and I was trying to live up to a high standard. I had to arrange interviews with a secretive bunch of officials, for example, which the villagers were furious about, as the officials had held two meetings in private, told the villagers that their health was okay and had not consulted them. That is why the committee sent me back. I decided to do a thorough health questionnaire so that people did not feel so cheated and I had to arrange an evidence session. I also had to put out a separate questionnaire to doctors, although that was not lifted. I contacted vets and scores of people in the Blairingone area, in Europe and in the various industries. I also, of course, went to the contractors. I tried to liaise between the contractors and the village.

I will describe one of the worst things that has happened as a direct result of the events that have been described. People talk about damage, but the damage has continued. I promised to go back to the village to hold a meeting there—it did not matter that I would no longer be an MSP. I said that we would have a meeting in the church in May about the village's future, not long after the publication of the report—once one gets into the Blairingone issue, one becomes obsessed with it. I said that we would discuss the future with the contractors. I tried to set up a liaison group to make things better between the contractors and the people, who were very angry. Bad things are still happening out there for various reasons. We have not been able to hold that meeting, as the standards case was progressing and I could not discuss matters in public. People would naturally ask what had happened to their health questionnaires and I would want to tell them, but I could not, as the case would have collapsed. All these months later, we have still not had our meeting.

10:30

Alex Neil: I need to pursue a couple of points. Was a log kept of the questionnaires as they were received?

Dorothy-Grace Elder: Yes.

Alex Neil: Who has that log?

Dorothy-Grace Elder: I had it at the time. I also passed stuff on to Dr John Curnow, who was the medical adviser on the report.

Alex Neil: Did the commissioner ask about the log?

Dorothy-Grace Elder: No. He asked nothing about that.

Alex Neil: Would checking the material that Tricia Marwick and Kenny MacAskill had against the log have shown up what have been termed as the missing questionnaires or shown what was a photocopy or an original?

Dorothy-Grace Elder: I do not remember enough to answer that. I probably needed a log of general paperwork more.

Alex Neil: It is fair to say that any member of the public who looked in on this case would be bewildered, to say the least. Before David Steel's intervention, was any compromise suggested at any stage by you to Kenny MacAskill and Tricia Marwick, or vice versa, to try to resolve the situation?

Dorothy-Grace Elder: Tricia Marwick and Kenny MacAskill never contacted me or complained after the events happened. They told their researcher that they would return all her possessions within a week. Knowing how volatile they are, I thought that I could work round things for a week, because I was doing lots of other activities, such as running out to Blairingone and Glasgow. I thought that the best way to proceed would be to see whether they came up with the documents. However, they kept delaying on returning their researcher's possessions. They asked her to send a list of items and she asked specially about the Blairingone paperwork, which she had marked as property of the Public Petitions Committee. Her material, but not mine, was returned. They never phoned.

When he interviewed me, the commissioner said, "They say that you have photocopies," and I said, "Did they ask? No, they did not." They made no inquiries whatever to find out what fix I might be in with the committee report. No quarter was given and no compromise was offered at any time.

I pointed out to the commissioner that if they had really needed the paperwork, all they had to do was to discuss it with me. They could have said that they needed the paperwork desperately. I

would have said, "Okay, we will compromise." At that stage, surely photocopies of everything could have been made, or I could have signed for the whole bundle and itemised it. If they had a case, they would have got it back. I would have done that with them or with anyone, but no move whatever was made. Even if there had been a big case—which there never was; papers were not even lodged—we would still have had to try to put the Parliament first. It would have been easy to do that and to work out a civilised solution, but nothing happened.

Alex Neil: Ownership of the papers is disputed. I know from what you have said and written that your opinion is that the papers belonged to you, whether they were photocopies or originals. Have you received any legal opinion from the police, who were involved, or from your own legal adviser, on the ownership of the papers in law?

Dorothy-Grace Elder: I phoned the Parliament's legal directorate a good number of months ago, because normally, it was very helpful. I asked who owns committee papers. I would say that, morally, the committee, the Parliament and whoever has worked on the papers own them. Anything that could have been of use should have been left with the Parliament, because everybody wants Blairingone to continue to be protected. The legal directorate said, "Oh, Dorothy, is this about the standards case? We cannot tell you because we are advising the Standards Committee." I tried somebody in Westminster, who was not very sure, but I do not want to ask Westminster who owns Scottish Parliament papers. It was my work, but it was for this Parliament. It was an agony of work to do.

Alasdair Morgan: Roughly how many questionnaires were there?

Dorothy-Grace Elder: There were 44 or 45.

Alasdair Morgan: You said that some questionnaires in the file were originals, but the rest were photocopies.

Dorothy-Grace Elder: Yes. A minority of the questionnaires were originals.

Alasdair Morgan: Where is the bulk of the originals? I am a bit confused about that.

Dorothy-Grace Elder: I had a large number of the originals, but not the full set, which I needed.

Alasdair Morgan: At the time that all this was going on, you possessed those originals.

Dorothy-Grace Elder: I had some of the originals, but I had none of the general research. I needed the full set.

Alasdair Morgan: Okay, but you had the vast majority of the originals.

Dorothy-Grace Elder: Yes, but you will appreciate that I cannot work from just the vast majority.

Alasdair Morgan: How many copies were made of the originals?

Dorothy-Grace Elder: Copying became difficult, because of the large amount of paperwork. I sent copies to Dr John Curnow in the north of Scotland, who was the medical adviser. Of course, the statistics had to go to him. The statistics benefited Dr Curnow more than me, because he could produce graphs from them, for example. They speeded up his work.

Alasdair Morgan: What happened to all those photocopies?

Dorothy-Grace Elder: I shredded my copies after I left my Ladywell office, because I simply did not have room by that time.

Alasdair Morgan: What has happened to Dr Curnow's copies?

Dorothy-Grace Elder: Dr Curnow still has copies, but at the time that the heist happened, it was impossible to get everything back from him. I did not even tell him about the situation then. He was dividing his work between Arbutnott, which is a small village in Aberdeenshire, and Orkney, where he had been the director of public health. He was taking up a new job in Liverpool and going into Blairingone, and he was on a 10-day contract that was extended to 14 days. I thought about whether I should ask the doctor to copy absolutely everything—44 sets of six pages—when he did not even have a photocopier. I decided not to take a day from his valuable work. I thought, "Nobody else will be bothered. I will get round it some other way." However, he did not have the other research papers, because he did not need them.

Alasdair Morgan: I asked that because, in your introduction, you accused Kenny MacAskill and Tricia Marwick of breaching the Data Protection Act 1998 by retaining the papers. Why have they been singled out for that accusation when it is clear that other copies of the same material exist elsewhere?

Dorothy-Grace Elder: The copies are not with me. I thought it proper to shred the material, especially after what happened. The other copies are with Dr Curnow, but they are in safe custody with him. He has sent me a letter inquiring about the whereabouts of the paperwork. He is concerned about that.

Alasdair Morgan: If you suggest that the copies are in safe hands with that doctor, why were the copies that Mr MacAskill and Ms Marwick had—which the committee now has—not in safe hands? What do you imply about them?

Dorothy-Grace Elder: The copies are now in safe hands with the committee, but those people had removed material that was not theirs. How can anyone regard such people as safe hands, whoever the MSPs are? Any MSPs who are not members of the relevant committee and who have lifted something that they repeatedly refuse to return cannot be regarded as safe hands. They were not authorised people and, as you know, people must be authorised to see any private committee paperwork.

There have been awful happenings in the Parliament when one photocopy has gone out to an unauthorised person. I remember the entire Health and Community Care Committee being called in once. An investigator was called in to ask who gave a photocopy of a draft committee report to somebody. You know that it can cause hell if any of that stuff is leaked.

In this case, big business was on one side of the controversy and the public health of the villagers was on the other side. How was I to know that the stuff would not be left somewhere or shown to unauthorised people? Ms Marwick states in one of her e-mails that she showed it to her assistant.

The Deputy Convener: You have made your points.

Alasdair Morgan: The problem is that every time I ask a question another one occurs to me. You used the words "authorised people". Who authorises them?

Dorothy-Grace Elder: I was authorised by the committee, as is anyone who produces a committee report. The doctor was authorised through a parliamentary appointment, which was a short-term appointment at that stage. I was authorised to deal with George Reid, for instance.

Alasdair Morgan: Therefore, are you suggesting that you authorised Mary Spowart to hold those papers? Was she an authorised person in that context?

Dorothy-Grace Elder: She was an authorised person in the same sense that my assistant Evelyn McKechnie was an authorised person taking the questionnaire round the village. Mary Spowart was able to look at the papers—she had been praised by George Reid. As I said, I went round all the people who had worked on the issue and their assistants. George Reid had praised Mary Spowart's previous work for him about two years ago. She showed me some of that work and it was very good work indeed, although of course George did a mountain of work himself. I gathered from everything that he and others said that Mary Spowart was a responsible person and an experienced environmental researcher.

Alasdair Morgan: I have two further questions.

You used words like "snatched" and "heist" about the documentation. Is not it the case that the documentation was in the office of Kenny MacAskill and Tricia Marwick, in the desk or cupboard of their researcher?

Dorothy-Grace Elder: Yes, as it turned out, but an office in the Parliament should be a safe place for respectable paperwork.

Alasdair Morgan: My last question refers to the e-mail that you sent on 27 February, I think, although there is no time on when it was sent. It was sent to Kenny MacAskill and Tricia Marwick and was, I think, the only direct contact that you had with them, or it was the first contact that you had with them.

Dorothy-Grace Elder: I cannot remember whether it was an e-mail, but it was a letter.

Alasdair Morgan: I am not quite sure how it was sent. It was certainly sent by e-mail, because it has the usual bumf at the bottom about

"The information in this e-mail transmission".

I am trying to come back to the original complaint, which concerns the bit of our code of conduct that deals with courtesy and respect. In the e-mail to Kenny MacAskill and Tricia Marwick, you refer to

"seizing it illicitly and without permission",

and

"your bizarre actions",

and you state:

"I request this file is handed to me immediately, today, by 5.30".

If you received an e-mail like that from somebody, would you feel that you were being treated with courtesy and respect? It is a bit over the top, and does not seem to be designed to get a satisfactory response.

10:45

Dorothy-Grace Elder: You are talking to a woman who was fighting a European case, who was running an east-end flooding campaign, who had a vast amount of constituency work to finish, and who was working day and night. Is one supposed to be absolutely angelic when, on top of all that, people heist your paperwork?

The tone of previous e-mails had angered a lot of people. Look at the reply to John McAllion, who sent a perfectly charming letter to Tricia Marwick. He was sent off with a flea in his ear, and told that he should not even be enquiring into the matter because

"this is not a matter for either you or your committee and I am surprised that you have allowed yourself to become involved."

That was the reply to a committee convener who was inquiring about his paperwork. Through that, I saw the hard and rude line that was being taken.

Please bear in mind the fact that the paperwork was seized on or before 3 February. I wrote on 27 February. I showed considerable restraint. I had not run around shouting and bawling. I handled the matter through the Parliament system, behind the scenes, and I saw one person after another being knocked down.

You can see the point in Kenny MacAskill's reply to me, in which he said:

"Your rambling and ungrammatical note is acknowledged."

I do not think that I am particularly ungrammatical—rambling, maybe, but not ungrammatical. That was the aggressive tone. The seizure was illicit and it was unpermitted. I do not think that anybody would like that to happen to their office, even over paperwork that you might think is innocuous. This paperwork was not innocuous. It preyed on my mind that people had trusted us to hand over their health records.

The Deputy Convener: Are there any other questions?

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I am concerned, but I am not sure that it is within our remit to determine whether the European convention on human rights has been breached, or whether there has been a heist. I am not sure whether it is within our remit to examine anything other than the original complaint under paragraph 9.2.5 of the "Code of Conduct for Members of the Scottish Parliament", which states:

"Members must treat other MSPs and the staff of other MSPs with courtesy and respect."

To that end, I seek clarification on two things that Dorothy-Grace Elder said. First, she said that Kenny MacAskill and Tricia Marwick, about whom she was complaining, told the standards commissioner that they needed the file as evidence in an employment case, but that they did not use it when the opportunity to do so arose. I cannot have been paying attention at the time. Will Dorothy-Grace Elder clarify exactly when that opportunity arose?

Dorothy-Grace Elder: I have the paperwork on that. There is also a private letter from the parliamentary authorities, who cannot reveal much, but which confirms one or two points. Did you ask when the opportunity arose?

Alex Fergusson: When did the circumstance arise in which they could have used the file but did not?

Dorothy-Grace Elder: It was at the employment appeal on 21 February. Tricia Marwick referred to an employment appeal when she was here on 25 June. That appeal definitely happened, and took the usual format of appeals in the Parliament—the two sides met the head of personnel at separate meetings on the same day. Quite often, matters are resolved on the day. As the union revealed, that is what happened.

It was up to the lady involved to decide whether to persevere and pursue a case, because the two MSPs had broken employment procedures, but she chose not to. She volunteered for a settlement. She lost the other part of the case, which I do not know about. The fact is that she could have pursued a case, but she chose not to.

As is normal, both sides were informed on the day of what had happened. From that date, both sides started moving towards a private settlement, which was reached. That angered me when I found out about it a long time later. All the time they knew that there would be no big, ghastly case.

The letter from the union organiser, Mr Paul Holleran, points out that even if there had been another case—say at the last minute, when somebody changed their mind X number of months later—it would not have been on an evidential basis and could not have been connected with any paperwork that the researcher had been working on. It would have been based only on procedure—the procedures that her former employers had broken. She was not going to fight any other part of the case, so the Blairingone paperwork would never have been used. As you know, in such employment matters, the first question is, "What have you got against each other? Please bring it along." In this case, lawyers sent stuff in advance, but it did not contain any of the health questionnaires or any of the Blairingone paperwork.

Alex Fergusson: That is the answer to my question. Thank you.

Dorothy-Grace Elder: It is in the letter, so you have proof of that.

Alex Fergusson: I have another brief point. You stated that Kenny MacAskill and Tricia Marwick never inquired of you in any way whether the retention of the file would compromise your work as reporter to the Public Petitions Committee. Are you satisfied that you made it absolutely clear to them that, as far as you were concerned, your work would be compromised and you would be put under what you described as a very heavy work load to do the work within the time scale?

Dorothy-Grace Elder: The clerk and the convener did so. As I said, I went through the chain of parliamentary authority, because the two

MSPs are rather volatile, as you can see, and I thought that if they were at it over this it was far better to deal with the parliamentary chain of authority. Normally, if a clerk asks for something in the Parliament, we hand it over; we do not need to get the convener involved or the Presiding Officer on the job. I decided to act in that way, but they knocked back all those people with refusal after refusal. The offer of a discussion was not even taken up. Mr McAllion said in his letter that he would be happy to discuss the matter with them if there was a problem. If we have a genuine reason to discuss something, we do so. "Parley"—Parliament—is all about talk.

Alex Neil: There is a material letter—in this case from the union—which apparently confirms what Dorothy-Grace Elder has said. Should it not be circulated to the committee, if Dorothy is agreeable to that?

The Deputy Convener: Would Mrs Elder like to circulate that letter?

Dorothy-Grace Elder: I have files I can give to each member of the committee and to the clerk.

The Deputy Convener: We will photocopy them and circulate them later to committee members.

Dorothy-Grace Elder: We have photocopied them.

The Deputy Convener: Thank you.

I want to clarify two points. On the letter, you said that the case was not settled on 21 February but that they were "moving towards" a settlement. Is that right?

Dorothy-Grace Elder: Yes, on—

The Deputy Convener: Was the case settled before you made your complaint to the standards commissioner?

Dorothy-Grace Elder: I made the complaint on 27 or 28 February. The employment appeal was on 21 February. Please bear in mind the fact that I found this out many weeks later. Something that the two MSPs said got me thinking, "When was that employment appeal?" I am a journalist, so it got my nose going. I made my submission on 27 or 28 February. The appeal had happened on 21 February. I did not know about that at all. The lady was not free to talk, because she was under some sort of gagging thing when there was eventually a settlement.

The Deputy Convener: There had been an appeal, but the case was not settled. It was still live and there was still a possibility of action being taken.

Dorothy-Grace Elder: You have to read the union's letter. In appeals of this sort, the Parliament adjudicator usually makes a

recommendation. I believe from the union—the Parliament adjudicator is not able to tell me such things, although he might be able to tell you—that the Parliament recommended that it was best, for both sides' sake, for them to come to a private settlement. However, the worker had volunteered on the day to go for a settlement—the union confirms that—so my term "moving towards" was possibly underrating events, because she was the person who would have taken up the case. A settlement most certainly occurred. I believe that it was some time later and I believe that the union became concerned that the two were delaying, because the lady was a widow and was left penniless. The case was settled.

Bill Butler (Glasgow Annesland) (Lab): On that point, when was the settlement finally agreed? In your statement this morning you said that the appeal against dismissal was agreed to and there was a private settlement on 21 February. Now you are saying that they were "moving towards" a settlement on 21 February. If that is the case, when was the settlement finally agreed to?

Dorothy-Grace Elder: Did I say, "was agreed to"?

Bill Butler: It might be my poor shorthand. Will you clarify the situation for me? When was the settlement finally agreed to absolutely?

Dorothy-Grace Elder: I could not be privy to that date. I know only what the Parliament office's recommendation was on the day. That was what the lady agreed and that is why I used the expression "moving towards". The researcher agreed to a private settlement that day. She agreed that she would go for that. My assumption is that a sum of money would not be mentioned on the day and that there would be a period of negotiation with lawyers and so on. The private settlement is what happened. As the two MSPs had broken employment laws and so on, I do not know whether they paid for the settlement themselves or whether the Parliament did so. I do not know when that was done. The term "moving towards" would be the best expression.

Bill Butler: Thank you. I just wanted clarification of that point.

The Deputy Convener: I have a final question. Two members pursued this line of questioning earlier. I stress that we are not here to investigate your conduct. Did you make any conciliatory offer to meet Mr MacAskill and Mrs Marwick half way?

Dorothy-Grace Elder: I did not, coming from the point of view that all those people had gone before me and I was getting all this negativity. Had there been the slightest glimmer of non-negativity, I would have been only too happy to do so. Had one of them rung me, even not a bit pleased, and said, "Could you come and see me, please?", I

would have belted upstairs to see them. I do not hate these people; I do not go around hating anybody. I disliked intensely what they did, but I would respect their work and I would not have done this to them.

The Deputy Convener: Thank you for appearing before the committee. I also thank your husband, Mr Welsh. Do you want to make a final remark?

Dorothy-Grace Elder: I have a copy of everything for you.

The Deputy Convener: Thanks. If you give it to the clerk, we will circulate it to committee members.

I ask John McAllion to join us. Good morning. It is good to see you, but possibly not in these circumstances.

John McAllion: Yes, these are unusual circumstances.

The Deputy Convener: Thank you for coming to give evidence this morning. It has been decided that you should give evidence under oath, so I am requiring you to do so under rule 12.4.2 of the standing orders. I remind you that you are here by invitation and are not required to answer any questions.

JOHN McALLION *made a solemn affirmation.*

The Deputy Convener: I believe that you have a few remarks to make on your participation in this event.

11:00

John McAllion: I have a very few remarks, because I am working purely from memory; I do not have the access to the documents that I used to have. The first thing that I want to emphasise is that the petition could be described as one of the more high-profile petitions that came before the Public Petitions Committee. It was an outstanding example of how the public petitions process in the Parliament could be used successfully by ordinary people in Scotland to try to achieve something of great concern to them. It was not just the Public Petitions Committee that felt that way. When the petition was first referred to the Transport and the Environment Committee, it took it seriously, launched a report and, through its good offices, forced a change in the legislation.

However, the Transport and the Environment committee felt unable to consider the petition's health implications and, as I remember it, the petition was then referred back to the Health and Community Care Committee. Because of its work load, that committee was unable to carry out a proper investigation into the health implications of the practice outlined in the petition. However, after

clarification from the Presiding Officer, it agreed that the Public Petitions Committee could pursue the petition. Despite the fact that we were under enormous pressure because of time constraints due to our work load and the fact that the parliamentary session was coming to an end, we felt that the matter was important enough to appoint a reporter and indeed a medical adviser, Dr Curnow, to investigate the petition and get a result for the people of Blairingone.

As a result, I was extremely concerned when the reporter, Dorothy-Grace Elder, reported back that other MSPs had seized papers that were pertinent to the completion of her report for the committee. Steve Farrell, the clerk to the Public Petitions Committee, and I decided to try to resolve the matter without any dispute or great public furore. Initially, Steve made informal approaches to Tricia Marwick and asked whether the papers, which we felt belonged to the Public Petitions Committee, could be returned to Dorothy-Grace Elder to enable her to complete her report for the committee. That approach met with a rebuff, upon which I agreed with Steve that he write formally to ask for the papers' return.

When that approach met with another rebuff, I then decided to write as committee convener to Tricia Marwick to ask again that the papers be returned to the committee because they were necessary for the completion of the Blairingone report. I think that the committee has a copy of the letter that I sent on 25 February and a copy of Tricia Marwick's reply, which basically said that the matter had nothing to do with us.

I understand that, in the background, senior officials in the Parliament were also trying to resolve the issue and that indeed the Presiding Officer himself had approached the MSPs concerned to try to broker some kind of compromise that would have meant that the matter would not necessarily have had to come out into the public domain. Unfortunately, in the long run, that is what has happened.

After receiving Tricia Marwick's reply, I had to report back to the Public Petitions Committee. It would be fair to say that, when we discussed the matter in private, the attitude of all the members present was very hostile to the reply that I had received from Tricia Marwick—they felt that it was a slight on the committee. In fact, a number of members were very keen that we hold public hearings and haul the MSPs concerned before us to answer questions on why they had seized our papers.

However, Steve Farrell and I decided that that was probably not the best way to go and succeeded in persuading members that, since Dorothy-Grace Elder was in the process of launching a complaint to the standards

commissioner, it would be best if the Public Petitions Committee awaited the outcome of the investigation into the complaint and then considered the matter further.

I have to say that the committee was concerned not just about completing the report, which was of course important. Members were also concerned about the very principle that it is our responsibility to protect papers that properly belong to the Public Petitions Committee, particularly private and confidential papers such as the health questionnaires that included private details and which were given to the committee in trust. We simply could not allow those papers to be seized by people, whoever they were, from outwith the committee.

It is also fair to say that, during the Public Petitions Committee's internal discussions, the view was expressed that one of the present code of conduct's shortcomings is that it does not cover such a situation. It contains nothing that would protect private papers that properly belong to the Public Petitions Committee or any other committee and which are seized by MSPs who are not members of that committee. In that respect, we decided to await the outcome of this inquiry before considering the matter.

Given that I am no longer a member of the Public Petitions Committee, I do not know whether the committee will give further consideration to the matter. However, I hope that it does so, because important principles are at stake.

The Deputy Convener: Thank you very much. We will have questions from the rest of the committee in a moment. However, to start off, can I confirm that the Public Petitions Committee's first approach was an informal one from the clerk, Steve Farrell?

John McAllion: As I understand it, Steve Farrell approached the MSPs privately to ask for the return of the papers.

The Deputy Convener: My correspondence contains a quite positive response to that approach. I believe that there was an e-mail that said that you might get the papers.

John McAllion: Well, we did not. It was reported back to me that we were not getting the papers.

The Deputy Convener: That is right. However, Steve Farrell then wrote a more formal request. At that time, had you heard from any other source apart from Mrs Marwick's e-mail that the MSPs were not going to give you the papers?

John McAllion: It was essentially Steve Farrell reporting back to me. My understanding was that the papers were not being returned, which is why it was necessary for me to write a letter.

The Deputy Convener: Okay. So, by the time that you wrote your letter, you had already tried to establish informal lines of communication and you had now embarked on a more formal process.

John McAllion: Even my letter had not been made public. Although I wrote it as convener of the Public Petitions Committee, we had neither published it nor said anything about it on the record. At that stage, we were still hoping that the issue could be resolved without it breaking into the public domain. We understood that the fact that this kind of thing can go on would be very damaging to the Parliament, never mind the individuals concerned. We did not want that to happen.

The Deputy Convener: Did you personally pick up the phone to Mr MacAskill or Mrs Marwick, or do you know whether the clerk did so?

John McAllion: No.

The Deputy Convener: There was no two-way discussion about how to resolve the issue.

John McAllion: Not really. I did not have any personal involvement in the disputes between Mrs Marwick and her member of staff. In fact, as a member of another political party, I felt that, as far as possible, it was better not to get personally involved and that I should keep writing in formal terms as convener of the Public Petitions Committee.

Alex Fergusson: I have a brief question at this stage, although I might want to come back to the point later. You have mentioned your deep concern that papers that were very relevant to Dorothy-Grace Elder's work had been withheld. When the matter was first brought to your attention, were you aware that the file concerned basically contained photocopies?

John McAllion: My understanding is very much as Dorothy-Grace Elder has already reported: the set of materials that she needed to complete her report was incomplete; some of those materials were in Tricia Marwick's possession; and Dorothy-Grace Elder needed those papers to complete her report properly.

Alex Fergusson: That was the impression that you were under.

John McAllion: Yes.

Alex Fergusson: Right. Does the fact that the report was completed alter your perception of the matter?

John McAllion: Not necessarily. No report is ever complete in the sense that nothing else can be done about it. The report was completed to the best of Dorothy-Grace Elder's ability; it was a good report and was highly valued by other committee members. However, that is not to say that it could

not have been an even better report if she had had full access to all the papers that were in the possession of the MSPs concerned.

As a matter of principle, I do not believe that this Parliament can allow private papers that have been given to a committee in trust by members of the public and which belong to that committee to be seized by MSPs who are not related to the committee because of issues that have nothing to do with either the committee or its inquiry. I do not think that that is a good practice, and if it is allowed it could have serious implications for the Parliament and particularly the petitioning process in the long run. If people do not have trust that the private information that they give to a committee will remain within it, the whole system starts to look a bit suspect.

Donald Gorrie: If I understand correctly, you were concerned about what happened for three reasons. First, it prevented Dorothy-Grace Elder from completing her report as fully or as well as possible. Secondly, there is the issue of principle regarding other people interfering with committee papers. Thirdly, there is the issue of confidentiality, especially in relation to the health information. Is it possible to rank those three issues in order of importance, or all three issues equally important?

John McAllion: That is a difficult question. I think that all three issues are important. As I have said before, the petition was very high profile and we were anxious to do as good a job as possible on it. There is no question that Dorothy-Grace Elder had the Public Petitions Committee's full support throughout the process. We discussed the item in private because we knew that the complaint was outstanding and could not discuss it in public. Although there was some discussion about it in public, I as committee convener tried to stop it under advice from the clerk. However, we were very much behind Dorothy-Grace Elder.

We also felt that the committee had been shown a lack of respect by the MSPs concerned, particularly in Tricia Marwick's response. I say "MSPs" but I should say that I do not know very much at all about Kenny MacAskill's involvement in the matter. We felt that it was important that papers belonging to a committee could not simply be seized—for whatever reason, even if the reason might be important to other people—without the committee's agreement. That is a very important principle.

Donald Gorrie: You were quite satisfied that these papers belonged to the committee.

John McAllion: Absolutely. There is no doubt about it. Someone asked earlier about Dr Curnow having copies of the papers. Dr Curnow was appointed by the Public Petitions Committee. He was part of our investigation and he properly had

access to those papers. We never gave anyone else permission to seize those papers.

Karen Whitefield (Airdrie and Shotts) (Lab): You mention the fact that Dr Curnow had copies of the papers. When it became apparent that Dorothy-Grace Elder was unable to complete her work because she was not sure which originals she did not have copies of, would the Public Petitions Committee have considered contacting the doctor to ensure that a full set of the notes was available, to allow the report to be completed?

John McAllion: We originally tried to get the actual papers back, privately. We failed in that approach. By the time that we came to discuss the matter, time was running out. We knew that this complaint either had been made or was on the point of being made, and the decision was taken to leave the matter until the complaint was investigated. We knew that the issue could not be resolved with the deadline approaching as fast as it was. The most important thing was to get the report out. If the people in Blairingone had found that we could not complete the report, that would have been a disaster. We tried to reach some compromise and decided to await the outcome of this investigation.

Karen Whitefield: I appreciate your views about the importance of possession of the papers. If the members concerned had come back to you and made a case to suggest that they needed to hold on to the papers because of a potential investigation and employment tribunal, would you have been willing to accept a compromise that would have involved either the members' giving you the originals on the basis that they would get them back or their making a further photocopy of the papers that they had in their possession and retaining the items that they believed to be originals? Would you have been satisfied with either of those proposals?

John McAllion: As you can see, in my letter of 25 February I offered to meet and discuss such issues. I cannot say that I would have agreed to whatever the members had proposed, but I would have taken the matter back to the committee and discussed what they were prepared to do. The Public Petitions Committee had no desire to make this a public issue. Our only concerns were to have the report completed and to protect the integrity of the papers that belonged to the committee. We feel that that was not done—sorry, I feel that that was not done. I cannot speak on behalf of the committee, as we have not had a discussion on the matter since the election and I am no longer a member of the committee.

Alex Neil: As I understand it, in the opinion of Dorothy-Grace Elder, the committee and you, the questionnaires came into two basic categories: those that were photocopies, of which Dorothy-

Grace had the originals, and those that were originals, which were the minority of the 44 or 45—I presume that we do not know how many. It is clearly your and the committee's opinion that having access to all the questionnaires was essential to fulfilling the original remit of the report. What about documents other than the questionnaires? Were they primarily photocopies or were they originals? Specifically, did the doctor in question—whose name I forget, but he came from the north-east—

John McAllion: Dr Curnow.

Alex Neil: Did he have access to the other documents or access only to the questionnaires?

John McAllion: I do not think that I could answer those questions. Dorothy-Grace Elder was the reporter and would know the status of the papers. The doctor would also know what he had access to. They were reporting back to us. The report that we got from Dorothy-Grace Elder said that the papers that she required to complete her report properly were being withheld. That is as much as we knew.

11:15

Alex Neil: On the question of the necessity of the papers, are you in no doubt that all the papers—the documents as well as the questionnaires—were absolutely essential to the completion of the report?

John McAllion: As far as I know, that is the case, but I cannot say that for sure as I have not seen the documentation. I have to trust Dorothy-Grace Elder. Not only I but the rest of the committee trusted Dorothy-Grace Elder's judgment on this matter. There is no question that she was acting in some way as a rogue element in the committee. She acted with the full support of the committee.

Alex Neil: Did Steve Farrell and you each or both inform Tricia Marwick and Kenny MacAskill that access to the documentation that they held was essential to the completion of the report?

John McAllion: I did, certainly, and I understand that Steve Farrell did as well. That is what it says in my letter.

Alex Neil: As I understand it, the then Presiding Officer suggested that the documentation be photocopied so that Tricia Marwick and Kenny MacAskill would have the documentation that they allegedly needed for the industrial tribunal and the committee would have the papers that it needed. If that compromise had been suggested to the committee, do you think that the committee would have accepted it?

John McAllion: I cannot say. That compromise was never offered.

Alex Neil: Would you have accepted it?

John McAllion: Possibly. It would depend on the nature of the information that was given to me about the status of the industrial tribunal, which I was not involved in at all. I would have had to report back to the committee members and only they can say whether they would have accepted that compromise. However, it is true to say that every effort was made to reach a compromise. There was no desire on the part of the Public Petitions Committee for the complaint to reach this stage. We wanted the issue to be resolved quietly, behind the scenes, and the report to be completed.

Having said that and reflected on what has happened, I think that the situation raises an important principle about protecting papers that properly belong to committees of the Scottish Parliament. If the code of conduct does not ensure that such papers are protected, it should soon be changed to do so.

Alasdair Morgan: In response to one of Alex Neil's questions, you confirmed that it was the committee's view and your view that only a small proportion of the documents were originals, the rest being photocopies. Would it be fair to say that that was simply you reflecting a fact that you had been told by Dorothy-Grace Elder and which you had no reason to disbelieve?

John McAllion: Yes.

Alasdair Morgan: You talk about good practice and not letting papers get into the hands of other members. Do you think that it was good practice for the papers to have been given to a researcher who not only was not Dorothy-Grace Elder's researcher but was a researcher for members of a party that Dorothy-Grace Elder had left?

John McAllion: I do not think that the party that the member belongs to has any bearing on this matter. The Public Petitions Committee was the only committee I served on in which party politics never entered into the proceedings. There was no consideration of which party members belonged to; the only concern was to look after the best interests of the petitioners in an attempt to ensure that they got a fair deal. I understand that the researcher in question was a properly accredited parliamentary researcher who had been directly involved with the petitioners in her past work. I would therefore have thought that she would have been a proper person to do some of the collation work that Dorothy-Grace Elder needed help with.

Alasdair Morgan: In the second paragraph of your letter to Tricia Marwick, you say that you have been informed that the documents are being retained by her

"on behalf of the SNP."

What did you mean by that, exactly?

John McAllion: Steve Farrell drafted the letter for me. We meant to convey that we knew that the matter was an internal SNP matter that related to the sacking of someone who had worked for the SNP, that was all. As I understood it, the researcher had worked for a member of the SNP, not the party itself—by suggesting that she was employed on behalf of the SNP, we were using shorthand. The sentence is not meant to say anything about the party. It does not have any great meaning.

Alasdair Morgan: I wanted to clarify that because I do not think that the girl worked for the SNP as such.

John McAllion: No, she worked for an SNP member.

Alasdair Morgan: As you said, however, the party to which a member belongs does not matter with regard to this issue.

John McAllion: That is correct.

The Deputy Convener: I thank John McAllion for giving evidence this morning.

As agreed at the beginning of the meeting, we now move into private session. We will resume in about 30 minutes.

11:20

Meeting continued in private.

11:56

Meeting continued in public.

The Deputy Convener: I thank members of the press and the public for their patience. We will now take evidence from Kenny MacAskill and Tricia Marwick. I thank both members for joining us.

You may have followed the earlier proceedings and be aware that it has been decided that you should give evidence under oath. Therefore, under rule 12.4.2 of standing orders, I require you to do so. I should remind you that you are here by invitation and are not required to answer any questions.

TRICIA MARWICK and MR KENNY MACASKILL made a solemn affirmation.

The Deputy Convener: I understand that Ms Marwick wishes to make a statement first. That will be followed by Mr MacAskill's remarks and I will then open the meeting to questions from the committee.

Tricia Marwick (Mid Scotland and Fife) (SNP): Mary Spowart was employed by Kenny MacAskill

and me as our personal researcher. She was sacked on 3 February 2002 for gross misconduct. Specifically, we had

"clear evidence that Ms Spowart was working for the Scottish Socialist Party and at least one other MSP while she was paid to work for us".

On 12 February, Ms Spowart's National Union of Journalists representative requested the return of what Ms Spowart claimed were personal items. Among those items said to be personal was a black lever arch file that was said to be

"the property of the Public Petitions Committee on loan to me"—

that is, Mary Spowart. The file was retained by us to be returned to the Public Petitions Committee if that committee so requested. It would have been inappropriate to return material that belonged to the Public Petitions Committee to someone who was no longer employed by the Parliament.

On 20 February, in a conversation with a clerk to the Public Petitions Committee, it became clear for the first time that the material had never been the property of the Public Petitions Committee. I reviewed all the material over the next few days. The black lever arch file contained photocopied questionnaires and was being worked on by Mary Spowart. I found a draft Blairingone report with handwritten annotation from Mary Spowart, and a spreadsheet that she had also worked on. The committee has those productions.

I found no evidence that any of the material in the black lever arch file was the property of Ms Elder. There was no indication as to who had been responsible for photocopying the original questionnaires. I also had evidence that Ms Spowart had made an input into the drafting of the original questionnaire, and was wholly responsible for producing the spreadsheet. The committee has those productions.

In Donald Gorrie's report to the committee of 3 September, Ms Elder admitted that even the black lever arch file did not belong to her.

On 21 February, the head of personnel heard Mary Spowart's appeal against dismissal. Personnel found that the decision to dismiss Miss Spowart was wholly justified. However, it was clear that Miss Spowart and her union were prepared to pursue matters to a tribunal if a compromise agreement could not be reached.

12:00

I pass some papers to the committee. The first is a letter from Kenny MacAskill and me to Ian Macnicol, the head of personnel. It shows clearly that the evidence that personnel was considering and that was in the hands of the NUJ concerned handwritten letters from Mary Spowart to Tommy

Sheridan, communications between Hugh Kerr, an employee of Tommy Sheridan, and Mary Spowart, and communications between Mary Spowart and the office of Dorothy-Grace Elder.

The other document that I am passing to the committee is a copy of an extract from the appeal decision letter from Ian Macnicol, in which he makes clear that the dismissal was justified and that both parties should enter into a compromise agreement. Bill Butler asked when the agreement was concluded; that happened on 14 May 2003. I have a letter from Anderson Strathern, our solicitors, enclosing the compromise agreement. That is being circulated to members.

After reviewing all the material, Mr MacAskill and I resolved that we would retain any material that could be pertinent to the inquiry or to any possible action. We were also clear that if we had the photocopies of the questionnaires in our possession Ms Elder was still in possession of the originals.

The first time that Ms Elder made any contact with us was by e-mail, timed at 5.12 on 27 February, after we had returned from the chamber. In the e-mail, she demanded that we return all the documentation by 5.30 the same evening. She wanted Mr MacAskill and me to deliver it by hand. I cannot be sure, but I probably read the e-mail at about 5.30 pm. At 5.47, Ms Elder made a formal complaint to the standards commissioner. That means that 35 minutes after the first communication from Ms Elder to Mr MacAskill and me she made a formal complaint.

To be as helpful as possible to Mr Spence, the acting standards commissioner, and to assist him in building a full picture of events, we gave him all the material relating to Blairingone, including material from Mary Spowart's computer, which we accessed with the assistance of the Parliament's information technology service, and the black lever arch file. That is also in the committee's possession.

However, the complaint by Ms Elder relates only to the retention of the questionnaires and how vital they were for completing her report. In paragraph 24 of his report, the standards commissioner was clear on that point. He said:

"The complaint lodged focused on the key part formed by these questionnaires and she did not at that stage, directly or by implication, identify any other documents. During her interview, however, she alluded to a 'spreadsheet' and a 'printed out piece of paper' in relation to the researcher's activity. These items would correspond with material generated by that researcher and retained on the computer within her employer's office, but not otherwise referred to in Ms Elder's complaint."

Ms Elder met her deadline of 11 March with a draft report to the Public Petitions Committee. It contained an analysis of the questionnaires from

the file. I can circulate extracts of the *Official Report* of the Public Petitions Committee meeting to members. Ms Elder's final report was published on 31 March and contained detailed analysis of the questionnaires and anonymous extracts from individual replies. That confirmed that the photocopies that we retained for employment-related purposes were not vital for the completion of her report. The standards commissioner reached the same conclusion.

I turn to the committee's investigation and some of the evidence that it has received. Ms Spowart's definition of "in her own time" would, if accepted, rewrite employment law. She was employed and paid to work for us between the hours of 9 am and 5 pm. She sought no variation of those hours. To argue that the work was all in her own time when she did it during time that she was contracted to work for her employers, at the work station and on the computer provided by her employers, and without her employers' knowledge, is simply not credible.

Ms Spowart also claims:

"None of the draft report was my work, it was all Ms Elder's."

There are two possibilities. The committee already has a computer printout from Ms Spowart's personal computer account, in a file called "Blairingone report". Either Ms Spowart sat at her work station and computer, created a report at 9.24 on 20 January, revised it a total of 54 times and then printed it off on her work computer at 10.36 on 27 January, or Ms Elder sat at the work station next to Kenny MacAskill at 9.24 on 20 January, came back, sat there a further 54 times in 11 days and printed off the report. My money is on Ms Spowart as author, because Kenny MacAskill is likely to have noticed Ms Elder sitting beside him on 56 occasions.

I turn to the serious allegation that was made by Ms Elder against Kenny MacAskill and me in the note by Donald Gorrie following her examination of the black lever arch file last week. She has repeated that allegation to the committee. After Kenny MacAskill and I were interviewed by the standards commissioner, he put it to Ms Elder that the questionnaires were all photocopies. Ms Elder

"acknowledged that this was the case".

No doubt realisation having then dawned on her that she had no case against us, she added the caveat

"that there might be one or two original questionnaires."

I am quoting from paragraph 24 of the standards commissioner's report.

Ms Elder now claims that there were originals. She alleges that either Kenny MacAskill or I stood over a photocopier and photocopied an entire file

of research papers and questionnaires, to make it appear as if they were all photocopies, and then submitted them to the commissioner as evidence, forcing him to reach the conclusion that he reached. Having failed to convince the commissioner, Ms Elder has changed her story in the light of the commissioner's conclusions. To her credit, Ms Spowart has refused to confirm Ms Elder's allegations of double photocopying.

Yesterday, in the presence of the Standards Committee clerks, I examined the material. Many of the photocopies in the file that I handed over to the standards commissioner and that are now in the committee's possession have handwritten notes in pencil, and at least one has a red date-stamp. If those were double photocopies, as Ms Elder alleges, the marks, too, would have been photocopied. In any event, when Kenny MacAskill and I spoke to George Reid three hours before the complaint was made on 27 February we advised him that all the questionnaires were photocopies. At that point, we did not know that a complaint would be made, that the complaint would focus on the questionnaires and that Ms Elder would later accuse us of tampering with the evidence.

John McAllion is a man for whom I have respect. It is clear that he was unaware of the status of the questionnaires and that they were photocopies. He was relying on the information that Dorothy-Grace Elder provided to him. Mary Spowart was not authorised by the Public Petitions Committee to work on the material. If her services were so vital, we could have been approached by the Public Petitions Committee and would have considered releasing her to work on the committee's behalf. No such approach was made.

Mary Spowart left the black lever arch file under a desk. When we retained the material, we put it under lock and key, to ensure the security of the information that it contained and to prevent its being removed from the office by Ms Spowart, who had been in her office after she was sacked. Mr McAllion's letter to me was inaccurate. This was never a matter for the SNP, as Mary Spowart was employed by Kenny MacAskill and me. The report produced by Ms Elder did not belong to the Public Petitions Committee until such time as the committee endorsed it.

Kenny MacAskill and I welcomed the standards commissioner's report and were not surprised by his conclusions, which exonerated us in every detail of the complaint.

The committee believed that there were still matters on which it needed clarification. You have taken evidence from Mary Spowart, George Reid, John McAllion and Dorothy-Grace Elder, and from Kenny MacAskill and me today. You now have clear, unambiguous evidence that Ms Elder and Ms Spowart's evidence is neither credible nor

trustworthy. I am happy to answer any questions relating to the complaint by Ms Elder against me and Kenny MacAskill.

The Deputy Convener: Thank you very much, Mrs Marwick. Mr MacAskill, would you like to say anything?

Mr Kenny MacAskill (Lothians) (SNP): These proceedings follow an investigation by the standards commissioner, which was not pleasant but with which we fully co-operated and in which my colleague Tricia Marwick and I were vindicated. The proceedings follow on from allegations made by Dorothy-Grace Elder, a former colleague, who I believe is acting maliciously. She did not show us the courtesy of asking whether our member of staff would or could assist her, and she subsequently made us the subject of a complaint to the standards commissioner relating to those actions.

I regret that we have reached this stage, because I believe that these proceedings are not only difficult for me and my colleague but damaging to Parliament as an institution. Inquiries seem to be de rigueur in the United Kingdom. We have one in London at the moment, sought by a Prime Minister and relating to the death of an innocent man and missing weapons of mass destruction, and the final outcome in Iraq is both worrying and uncertain for humanity. We also have one in Edinburgh, sought by a disgruntled former MSP and relating to retained photocopies, and the final outcome, according to both the complainer, Ms Elder, and the current Presiding Officer, George Reid, has been the Blairingone inquiry—apparently one of the great successes of the Scottish Parliament in its first session. There is a common acceptance that the Parliament is disengaged from the people, and I believe that it is unhelpful for Ms Elder to be allowed to proceed with matters such as this.

The first allegation that was made by Ms Elder—that the work covered in the papers retained by Ms Spowart was entirely her own—has been refuted by my colleague in her introductory statement. It has also been refuted quite clearly by the standards commissioner, who has referred to that matter.

Secondly, Ms Elder has alleged that she could not carry out her work for the inquiry, but it is quite clear that the inquiry was in fact delivered successfully, and that the items retained were photocopied. Since the matter first came before the committee, we have heard a suggestion by Ms Elder that evidence was tampered with. Not only is that matter the subject of this inquiry—a quasi-judicial proceeding for which my colleague and I have been put on oath—but it would in fact constitute a criminal offence. I believe that Ms Elder's allegations are becoming more strident

and more offensive. It is quite clear from the documentation that, as my colleague has pointed out, there was no photocopying of photocopies, as has now been suggested by Ms Elder. I suggest that, at its lowest, that must affect her credibility and, at its highest, it reveals that she has been lying.

I will happily answer any questions that the committee has. It is a matter of regret that we find ourselves in these circumstances and I hope that we can draw the matter to a conclusion sooner rather than later, so that Parliament as an institution can regain some prestige and so that the credibility of my colleague and me, which has been tarnished by the episode, can be redeemed.

The Deputy Convener: I will begin with a question to Mrs Marwick. You said before, and have just said again, that it was quite clear after you talked to the clerk to the Public Petitions Committee that the file was never the property of the Public Petitions Committee. Could you expand on that?

Tricia Marwick: I have already referred to the letter that we got from the trade union saying that some of Ms Spowart's possessions were sought. Included among those possessions was the black lever arch file that was purportedly the property of the Public Petitions Committee. You can see from my response that, had it been the property of the Public Petitions Committee, I would have been more than willing to return it.

When Steve Farrell e-mailed me, although the e-mail was not particularly clear, I still believed that the material was indeed from the Public Petitions Committee. I was well aware of the wonderful work that had been done by George Reid and others, including the Public Petitions Committee, on Blairingone. I thought it perfectly reasonable to assume that some of that material actually belonged to the Public Petitions Committee, having been submitted to them in times gone by, and that it had been borrowed so that Ms Spowart could go over it.

12:15

However, when I spoke to Steve Farrell, it became clear that the material had never been the property of the Public Petitions Committee. When that became clear, I decided that I would review all the material. Until that point, I had noted that there were photocopied questionnaires, but I had paid no attention to any of the other material that was in the file. Over those 10 days, the Blairingone petitions were not a priority for Kenny MacAskill and me. Our priority was to ensure that no SNP material, or indeed any of our own personal material, had been leaked to the SSP. Ensuring that that was all okay was what consumed us for a number of days.

When I looked in detail at the file for the first time, it became quite clear that we were talking about photocopies of questionnaires and that all the work that had been done in analysing those questionnaires had been done by Mary Spowart. From the draft Blairingone report through to the spreadsheet, it had all been created by Mary Spowart. I found no evidence anywhere in the file about who had photocopied the questionnaires or who had done the work on the questionnaires in the first place. I had no evidence that Ms Elder had contributed in any shape or form to the work in that lever arch file. On that basis, I concluded that everything in the file was the work of our researcher, and Kenny MacAskill and I decided that we would retain all that material in the event of the industrial employment matter continuing. The employment tribunal took place on 21 February, and the matter was not concluded until 14 May, as I think I said.

Donald Gorrie: On the issue of who the papers belonged to, could you clarify your argument, which I find difficult? If I write a letter and somebody takes a photocopy of it, does the letter belong as intellectual property to the photocopier or to me? You seem to be arguing that because Mary Spowart had certainly done some work on the matter, and nobody denies that, it was all her work, whereas Dorothy-Grace Elder and Mary Spowart have indicated that a lot of the work was that of Dorothy-Grace.

Tricia Marwick: I shall pass that question to my lawyer colleague.

Mr MacAskill: I shall answer that, as I provided the legal advice. We retained the answers for two reasons, as we made quite clear to the standards commissioner. First, we did so in case there was any pending litigation. After all, an employee has the right to go to an industrial tribunal at any time within 90 days. Notwithstanding the discussions that we had with Mr Macnicol, there were on-going opportunities for Ms Spowart, through her NUJ representatives or by herself, to lodge an industrial tribunal application at any time within the 90-day period. Indeed, beyond that, she had the opportunity to raise any action at common law. We therefore needed to consider our position.

Secondly, in terms of property, if the reporter who has been sent here and paid by the *Daily Record* to report today's proceedings should go out of this room and sell the story to *The Scotsman*, the *Daily Record* would say, "We paid your wages, we sent you there and you are working for us." I do not accept the analogy regarding the photocopy; it is a question of what one is employed for. Ms Spowart was employed by us as a researcher for me and my colleague. We were never asked by Ms Elder, by the Public Petitions Committee or indeed by John McAllion

whether she could work for them. Had we received such a request, we might have considered it quite favourably. After all, work done by Ms Spowart has been circulated to others with our consent. At no stage, however, were we approached, and I was certainly never aware of any such on-going work.

In terms of where the intellectual ownership of that property lies, I believe that any work carried out by a member of staff and paid for by the employer remains the property of the employer, unless there is some good reason why it should be otherwise and they have either given their consent or homologated at a later date.

Donald Gorrie: The work that Ms Spowart did was her intellectual property, but you retained papers that, according to Dorothy-Grace Elder and John McAllion, were essential for the progress of the work of the Public Petitions Committee.

Mr MacAskill: With all respect, they were not. If you look—

Donald Gorrie: I do not quite see why any errors committed by Mary Spowart or even Dorothy-Grace Elder alter the claim that the papers were mostly her work and were essential to the committee.

Mr MacAskill: I do not dispute that the work was carried out by Mary Spowart. That is confirmed by the standards commissioner in the final sentence of paragraph 21 of his report, which says:

"I have confirmed that the entries concerned were 'saved' under the personal code allocated to the researcher."

That means that the work was retained by Mary Spowart. There is no indication of any authority that the papers belonged to the Public Petitions Committee and certainly not to Dorothy-Grace Elder. That confirms that the work was done at a time when she was employed by us.

Paragraph 24 of the standards commissioner's report says:

"In the course of this investigation it was put to Ms Elder that the file contents were photocopies of completed principals".

The standards commissioner goes on to suggest that it was subsequently suggested that some material could have concerned other matters but paragraph 26 makes it quite clear that that was not the basis of the complaint.

I believe that we were entitled to hold the property for two reasons. First, we faced pending litigation that could have been substantial—indeed, the discussion and communications between Ms Elder and the NUJ subsequent to the matter's being resolved suggest to me that the NUJ was considering proceedings. Secondly, I do

not believe that there is any evidence to suggest that the work was not the intellectual property of Tricia Marwick and me. When George Reid approached us in private, we indicated that we would be happy to discuss how the documents could be transferred. However, no approach was made by Ms Elder, who had already made her complaint.

Tricia Marwick: The standards commissioner was also satisfied that the material might be relevant to any legal proceedings that might arise out of the termination of the researcher's employment. That is why paragraph 29 states that the retention of the documents was

"prudent action by the two Members concerned".

Mr MacAskill: Paragraph 30 says:

"The photocopied documentation cannot be identified as 'vital' to Ms Elder's role as Reporter to the Committee as she already had the original documentation".

Tricia Marwick: Neither Mr MacAskill nor I took the view that photocopies of questionnaires, the originals of which were held by Dorothy-Grace Elder, were vital to the completion of the report. As a member of the Scottish Parliament, I would do nothing that would harm any of its committees. In my initial response to the trade union, I made it clear that if the documents had been the property of the Public Petitions Committee, I would have returned them. Similarly, in my initial response to the Public Petitions Committee clerk, I made it clear that I would return any material that belonged to the Public Petitions Committee. The fact is that the material that we held was not vital to Dorothy-Grace Elder. We did not think so and neither did the standards commissioner.

For the life of me, I cannot see how, if she had the originals, she needed the photocopies that we believed we would need during a possible employment tribunal.

Donald Gorrie: The clerk and the convener of the Public Petitions Committee, the Deputy Presiding Officer and the Presiding Officer all asked you to do something about the situation. Are you so satisfied with the strength of your argument that the papers were not necessary to the Public Petitions Committee that you feel that you were justified in refusing all of those requests to come up with a compromise, copy the papers again or whatever?

Tricia Marwick: Why on earth would we photocopy photocopies of questionnaires for Dorothy-Grace Elder when she had the originals? That is a bizarre suggestion. There was no reason why she should be given the photocopies of the questionnaires, as she already had them. I was satisfied that it was important that we retained the material that we had for a possible employment tribunal. I was also satisfied that none of the

material that we held on to was vital for Dorothy-Grace Elder's report.

When Steve Farrell made approaches, had the material belonged to the Public Petitions Committee, I would have returned it in a minute, as I have already indicated. However, the material did not belong to the Public Petitions Committee. I turn to the approach from John McAllion. I had come out of the chamber at lunch time, having sat in a meeting all morning, leading for the SNP on the Prostitution Tolerance Zones (Scotland) Bill. I had a meeting at lunch time and my personal assistant had had a number of calls from Steve Farrell asking whether I was in a position to reply to John McAllion's letter. That letter was inaccurate. The material was not material that would be retained by the SNP and it was not vital to Dorothy-Grace Elder's report. I assumed that he had been listening to Dorothy-Grace. Anybody who has knowledge of Dorothy-Grace would know of her tendency to exaggerate the situation. I truly believed that the material was not vital. I did not believe then that it was vital and I do not believe it now and, more important, neither does the independent standards commissioner.

Donald Gorrie: I have one other question. In her written evidence, Mary Spowart states:

"As far as I can recall approximately a quarter of the medical questionnaires were originals and the rest were photocopies."

She also states:

"These papers were absolutely vital for Ms Elder's work."

Do you dispute those two statements?

Tricia Marwick: The black lever arch file, which was lying under Mary Spowart's desk, and which we retained, contained no original questionnaires. Every single questionnaire in the file was a photocopy. I have already said that before the complaint was even made, both Kenny MacAskill and I informed George Reid that they were photocopies. If Ms Spowart had had originals in her possession at any time, I do not know what she did with them. All that I am saying is that the black lever arch file contained absolutely nothing but photocopies of questionnaires.

Alex Fergusson: I have one or two questions in relation to retention. Even the commissioner accepted that the photocopied documentation could not be identified as vital to Dorothy-Grace Elder's role as reporter. However, he suggested that the report might—and I stress, might—have been dependent on the spreadsheet and other documentation in the lever arch file to which you have referred and that, if that were the case, further work would have been required in the drawing up of the report.

Given that statement, and given your statement on why you saw fit to retain the folder, why did you

think that it was right to reject the compromise that was suggested by the Presiding Officer? I accept what you said about why should you photocopy photocopies, but I understand that some of the rest of the material in the file, which was not questionnaires, might have been original and therefore extra work would have been required. What was in it for you to reject the compromise position that was put forward by Sir David Steel?

Tricia Marwick: On a number of points, the commissioner is quite clear that the complaint from Dorothy-Grace Elder related only to the questionnaires. That is the complaint that we are dealing with. The matter of the other material, including the work that Mary Spowart had done, does not relate to this complaint. We did not return the file, because we needed it for evidence. We sacked Mary Spowart on 3 February. From that date onwards, until 11 March, she was assisting Dorothy-Grace Elder. The work that she did on spreadsheets in our time over a period of time could quite easily have been replicated in the six weeks up to the draft report's coming out. There was no reason why she should not do the work again. There was no requirement on us to release material that she had done in our time, which we were retaining for possible future employment proceedings.

12:30

Mr MacAskill: It should be remembered that that was just one part of what had been going on with Ms Spowart. In addition to work that Ms Spowart was apparently doing for Dorothy-Grace Elder, we located a draft SSP manifesto that Ms Spowart had worked on. I rue the day I hired her and I bless the day I fired her. We had to do significant checks on what she was doing, which related not just to items for Dorothy-Grace Elder, who never showed us any courtesy in asking us whether she could utilise our researcher or her facilities.

John McAllion's point about how MSPs interact with committees is valid, but there is also a valid point about how MSPs interact with other MSPs, which the standards commissioner identified. We co-operated as best we could in the circumstances. Even though my legal training has been somewhat diminished as a result of not having practised since 1999, I still believe that evidence should be held on to when matters are pending. Discussions with lawyers have backed up that position. The NUJ corresponded with us at length. Matters involving Ms Spowart were not resolved until the Parliament had dissolved.

Alex Fergusson: I do not dispute any of what either of you has said. However, if, in a spirit of compromise, you had seen fit to accept the Presiding Officer's suggestion, you would still have

been able to retain the file for use in evidence. I am interested only in the essence of the complaint, which is that you did not show respect and courtesy to Dorothy-Grace Elder. Respect and courtesy might not have been shown in the other direction, but that is nothing to do with our inquiry. What was wrong with the Presiding Officer's suggested compromise?

Tricia Marwick: When the Presiding Officer wrote to Kenny MacAskill and me, the complaint had already been made to the standards commissioner—the Presiding Officer corresponded with us some days after the complaint had been made. Frankly, I had had quite enough by that time. The police had interviewed Kenny MacAskill, security had come to our floor to ask for the return of the material and we had had to deal with John McAllion and clerks from the Standards Committee. At the beginning, our office had been broken into. Two days after Ms Spowart was refused entry to the floor, she had to be removed by security for attempting to remove material from Kenny MacAskill's room in the company of Felicity Garvie of the SSP. By the time that the Presiding Officer got in touch with us, the standards commissioner had already received the complaint. By that stage, the complaint was on-going and I was firmly of the view that the standards commissioner should be left to deal with it.

Mr MacAskill: The allegation that was the subject of Ms Elder's complaint to the standards commissioner, and of what she has said today, is that she views us not as being guilty of gross discourtesy, but as being guilty of matters contrary to ECHR and Lord alone knows what else.

Paragraph 3 of the standards commissioner's report states:

"On 27 February 2003, Ms Elder made a written complaint ... to the effect that a file of information that she had placed in the possession of a researcher had been retained by Mr MacAskill and Ms Marwick. She asserted that the file was entirely her own intellectual property and comprised returned questionnaires that she had obtained from a health inquiry in the Blairingone area ... Ms Elder contended that without this vital file she could not possibly carry out the work intended".

The commissioner's investigation has shown that that was not true. I would aver that the file was not her intellectual property and was not vital, as it contained photocopies. She and the Presiding Officer have commented on the fact that the matter was all resolved anyway.

I heard Ms Elder on the radio singing the praises not just of the Parliament but of her wonderful role in the action on Blairingone. If so great an impediment had been put in her way, how did she manage to produce such a wonderful piece of work in such a short period of time in such straitened and difficult circumstances?

The Deputy Convener: We want you to provide a robust defence to any complaint against you, but I ask that you do not stray into other allegations, particularly those that involve members or former members. I ask you to restrict yourselves to defending the complaint against you.

Alex Fergusson: I have one final point. You state that you wished to retain the documentation for use in evidence in any tribunal or employment case that might be upcoming. Did you do so? If not, why not?

Mr MacAskill: Matters proceeded and the discussions with Mr Macnicol were resolved, with the internal inquiry of the parliamentary employer vindicating our position. Subsequently, through the solicitors that we employed and through the representatives of the National Union of Journalists, a settlement was entered into. That settlement did not happen until after Parliament was dissolved. It was significantly close to, if not after, the election.

Tricia Marwick: I think that I have already circulated to committee members a copy of the letter from our solicitors, which is dated, I think, 5 May. As I understand it, the settlement was concluded on 13 May.

Alasdair Morgan: I have one supplementary question on what you said earlier, when the issue of confidentiality was raised. Can you say where the lever arch file was when you discovered it?

Tricia Marwick: I am happy to do so. The lever arch file was under the desk that was used by Mary Spowart. There were loose papers under the desk and shoes and other things—in fact, the place was a midden. The office door had no lock to it, so anybody could enter it. Indeed, somebody did so and removed papers from the office on the night that Ms Spowart was sacked. As soon as I retrieved the lever arch file, I placed it under lock and key to ensure that the confidential material that it contained remained confidential. The lever arch file stayed under lock and key until such time as I removed it for examination, and it went back under lock and key until such time as I handed it over to the standards commissioner. No person was able to access those questionnaires.

That was the right and proper thing to do. It is not acceptable under any circumstances to leave such important confidential material lying under a desk for anybody to come in and have a look at it.

Mr MacAskill: The desk that was occupied was the one adjacent to mine. Most members of the Parliament and their staff will be in the same situation; Ms Spowart occupied that desk because she was in my employment. The room in which she was located was my room, which was shared with the other members of the SNP group.

Alex Neil: A lot of this seems to surround the issue concerning the photocopies of the questionnaires. I do not want to get into the other documentation—the spreadsheets or the draft report—but how do you know that all the questionnaires were photocopies?

Tricia Marwick: Because I looked at them.

Alex Neil: If you pick up a paper, how do you know that it is a photocopy?

Tricia Marwick: A photocopy is a photocopy is a photocopy. How do you identify that a horse is a horse? It is just a horse.

Alex Neil: Presumably, the questionnaires were photocopied before they were sent to the people who were asked to send them back. I have looked through the lever arch file and, in some cases, I think that it is not possible to say that all the questionnaires are photocopies. I am trying to be helpful and get to the bottom of this. What makes you so sure that they were all photocopies?

Tricia Marwick: I looked through the lever arch file when I examined it and it was clear to me that they were all photocopies. When the standards commissioner got the file, he looked through all the documents and he saw that they were all photocopies. Two different people—I and the independent standards commissioner—looked through the file and saw that they were photocopies.

Mr MacAskill: We gave the standards commissioner the papers that we retained. Ms Elder has subsequently made the suggestion that we tampered with the papers—

The Deputy Convener: If I may interrupt, that subject is not a matter of the complaint against you. You have made that point already.

Mr MacAskill: However, that issue affects her credibility, so I ask the committee to consider it. The papers that we gave to the standards commissioner were the papers that we had held.

The standards commissioner put that to Dorothy-Grace Elder and she did not appear to dispute the fact, apart from—as my colleague said earlier—at some stage later on in the proceedings of the formal interview with the standards commissioner, adding the caveat that maybe a few originals were there. If it is now being suggested that we varied, shredded or ate papers before we handed them to the standards commissioner, I refute that entirely and regret it. Ms Elder has gone to the extent of putting down in writing, in communication to this committee, that we had photocopied photocopies. It is quite clear that the papers that the clerk has, which have been commented on by my colleague, are written on by either Ms Elder or, in particular, Ms Spowart and cannot possibly have been photocopied. They

are, therefore, the originals. In those circumstances, it damages Ms Elder's credibility and, I would go as far as to say, just confirms that she has been lying.

Alex Neil: Can I go back to my original line of questioning?

The Deputy Convener: Indeed. I urge the witnesses please not to make further allegations against other members or non-members of Parliament. We are here to investigate the complaint. It will not help our deliberations if such matters are brought in.

Alex Neil: Tricia, can you please clarify something that you said in your introduction? You referred to at least one of the documents being date-stamped in red. Were you referring to one of the questionnaires?

Tricia Marwick: I was referring to one of the questionnaires.

Alex Neil: If a questionnaire was photocopied, would the date-stamp not come out as black rather than red?

Tricia Marwick: When I examined the material yesterday, there was a photocopy that had a red date-stamp on it. Why there was a red date-stamp on a photocopy, I do not know.

Alex Neil: Are you suggesting that somebody has put that stamp on that document since you released it to the committee?

Tricia Marwick: I most certainly am not. What I am saying is that the entire intact file that we retained when we sacked Ms Spowart was given in that same form to the standards commissioner. How many date-stamps got on it, I have not got a clue.

Alex Neil: Let us be clear on this. You are saying that a red date-stamp has appeared on one of those documents since you inspected it in early February.

Tricia Marwick: No. You are not listening to what I am saying.

Alex Neil: I am listening. I am trying to understand this.

Tricia Marwick: Let me try to make this as clear as possible to you. The file that we retained from Mary Spowart was handed over in its entirety to the commissioner. When I examined the documents, following approaches from the clerk to the Public Petitions Committee, it appeared to me that they were all photocopies. When I looked at the material yesterday, after the allegations made by Ms Elder that somehow we had photocopied photocopies, I noted in front of the clerk that some of the questionnaires had handwriting in pencil on them. I also noted that one had a red date-stamp

on it. How the red date-stamp got there, I have not got a clue. I assume that the red date-stamp was there when the material was in the file. I certainly did not touch the file. I do not think that the commissioner touched the file. Therefore, it follows that the red date-stamp was put on the questionnaire at some point before I accessed the file.

Mr MacAskill: Our office does not use a red date-stamp and has not used a red date-stamp. It has nothing to do with the operations of my office.

Alex Neil: I am not making any accusations. I am just trying to get to the bottom of this. When you inspected the questionnaires at the time that Mary Spowart was sacked, did any of the questionnaires have a red date-stamp on them?

Tricia Marwick: I do not know. I could not possibly know. I never went through the files and noted that one had a red date-stamp on it.

Alex Neil: In that case, how do you know that they were all photocopies?

Tricia Marwick: They were all photocopies as far as I was concerned. The independent standards commissioner looked at the file that we handed to him and concluded, in his report, that they were all photocopies. Why anybody would want to put a red stamp on a photocopy of a questionnaire, I do not know.

Alex Neil: Would you agree that on a photocopy of a document with a red date-stamp, the date-stamp would not come out red?

Mr MacAskill: I do not think that I am qualified to answer that. I am not suggesting that anybody put the red date-stamp on after the papers went to the standards commissioner. As far as I can see, that would clearly infer that the red date-stamp was on the papers at the time of their being retained by us.

If, in your line of questioning, you are asking whether I can say I saw a red date-stamp in the documents—as has now been confirmed—the answer is no, because I do not remember going through them. However, Mr Neil, I am most certainly not suggesting that someone either in the clerk's office or anywhere else imposed a red date-stamp.

Alex Neil: I am not suggesting that you are suggesting that.

Mr MacAskill: However, the date-stamp highlights that it is most unlikely that the items have been photocopied. As for scientific evidence about what happens to a red date-stamp when it is photocopied, that is not something on which I can comment with any accuracy, although my experience of standing on the second floor of parliamentary headquarters, photocopying items, tends to indicate that it would not come out red.

12:45

Alex Neil: I want to be clear about this point before I leave it: at least one questionnaire in the file has a red date-stamp, which suggests that it is not a photocopy.

Tricia Marwick: A questionnaire—a photocopied questionnaire—in the file has a red date-stamp on it.

Alex Neil: Do you know what date it was stamped on?

Tricia Marwick: No. I do not know whether the clerk noted that, but I certainly did not.

Mr MacAskill: In my experience of offices, people sometimes date-stamp a variety of materials, including photocopied materials. However, it would really be wrong of me to speculate as to how a red date-stamp might have arrived on material and whether it shows that the material is original or photocopied. The file that we gave to the standards commissioner was untouched and not added to. I have no reason to believe that it has been in any shape or form changed, amended or varied by anyone since that date.

Alex Neil: There is clearly a dispute on all sides over whether all the questionnaires were photocopied. My questions are trying to establish whether that is the case, because it is the kernel of the issue of how vital the documents were.

The Deputy Convener: I suspect that there has been a slight misunderstanding with this line of questioning. I wanted to follow the same point, but my question does not centre on whether any photocopying has taken place. Instead, it centres on how vital the documents were to Dorothy-Grace Elder to allow her to conduct and finish her inquiry to the best of her ability.

You clearly believe that all the so-called original documents—all the documents in your possession—were not originals but already photocopies. As a result, you believed that Dorothy-Grace Elder did not need them back to finish her work. Dorothy-Grace Elder and Mary Spowart have both said that although many—the majority—of the documents were photocopies, they were still essential, and that there were also some original documents and other associated material, all of which was vital to Dorothy-Grace to conduct her inquiry. I believe that that is the reason for this live inquiry.

You have said that you looked at the documents originally and that they all looked like photocopies. As a result, you assumed that they were photocopies. Did you make any further inquiries to ascertain whether they were indeed photocopies or where the originals were?

Tricia Marwick: When I looked at the file, the papers all appeared to be photocopies. Indeed, the standards commissioner confirms in his report that, when he looked at the file, he found that they were all photocopies. I do not know whether someone as a matter of practice or mistakenly had put a red date-stamp on a photocopy before submitting it to Mary Spowart. In my opinion, all the questionnaires in the file are photocopies.

The Deputy Convener: Indeed. You assumed that the papers were all photocopies. Did you then take any further action? Did you ask Dorothy-Grace Elder, Mary Spowart, the clerk or anyone else to confirm that Dorothy-Grace Elder could continue her work without the papers, because they were secondary documents?

Tricia Marwick: I examined the file. In my opinion, the papers were all photocopies. As a result, I concluded that if they were all photocopies—and I had no doubts on that point—Ms Spowart presumably had the originals. The acting standards commissioner examined the file that we gave him and confirmed that the papers were all photocopies—indeed Ms Elder, in her evidence, confirmed at first that they were all photocopies. Indeed, when the question whether the papers were all photocopies was put to her, she acknowledged the fact but added the caveat that there might have been one or two originals.

I am clear that all the questionnaires in the file are photocopies. The independent standards commissioner is clear that they are all photocopies. No double photocopying has happened to those photocopies, because if it had, a red date-stamp would not have been found on them.

The Deputy Convener: I think that that is established.

I wish to pursue one other point. Mr MacAskill, I think that you suggested earlier that when you met the Deputy Presiding Officer, George Reid, you discussed how the material could be transferred.

Mr MacAskill: No.

The Deputy Convener: Mr MacAskill did not suggest that. I am sorry.

Mr MacAskill: You would need to remind me of what I actually said. We said that we would be happy to have a discussion and to reach a compromise. Nobody came back to us because, once George Reid became more apprised of the circumstances, and began to understand that we had never been approached and that Miss Spowart had never been authorised, it became quite clear that he was backing off, because he felt that circumstances were much more complicated than he had been led to believe by Dorothy-Grace Elder, and that it was not a case of our having

stormed the bastions of her office and stolen the items that she was working upon for necessary completion of the Public Petitions Committee's report.

Tricia Marwick: When we spoke to George Reid we indicated that the questionnaires were photocopies. We also said that nobody had approached us to suggest any kind of compromise. Indeed, we said that Dorothy-Grace Elder had not come near us. We had had no communication whatever from Dorothy-Grace Elder until something like two hours after we spoke to George Reid. I know that he went back to Dorothy-Grace Elder because, in her intemperate e-mail to us at 5.12 that same evening, she said, "I know that you have spoken to George Reid and that you have refused a request from him." At that stage, we made it clear that Dorothy-Grace Elder had not spoken to us directly. Had she done so, we might well have reached a compromise.

The Deputy Convener: I just want to establish the fact that it is quite clear that early on, when Steve Farrell e-mailed you, you were willing to hand over the documents, but then you discovered by doing further work on them that you did not think that that was an appropriate course of action.

Tricia Marwick: I am sorry, Ken—I did not catch that.

The Deputy Convener: I said that although you were willing to hand over the documents initially, you examined them and felt that that would be an inappropriate course of action for you to pursue. In evidence to us, the Deputy Presiding Officer said that his conversation

"was perfectly amicable but very brief",

since you did not intend to release any of the papers. I am just trying to establish whether there was at that point willingness on your part to hand over the papers.

Tricia Marwick: It was certainly an amicable discussion. We pointed out that the papers were photocopies of questionnaires. We said that Dorothy-Grace had never even come to us, and that maybe she and we could discuss it. However, as things stood at that precise moment, we were not inclined to hand over the material to George Reid or anybody else.

Mr MacAskill: We never precluded doing that, but Dorothy-Grace Elder never formally approached us in any manner that was other than demanding.

Alex Neil: I have a couple of points. When John McAllion wrote and seemed to indicate that he would be willing to have a chat about the matter and you appeared to turn down that offer, was there at that stage no room on either side for compromise?

Tricia Marwick: John McAllion wrote to me. As I said, the letter was full of inaccuracies. He believed that the file was vital. I had had an extremely heavy day the day before. I was in the chamber all morning. I came back at lunch time and I had another meeting, so the letter to John McAllion might not have been all that it could have been. I was making it clear to John McAllion that I thought that it was not a matter for him or his committee. I believed at that stage that it was an employment matter. Perhaps, on reflection, I could have given him a bit more information and told him that there were indeed photocopies and that they were not needed for the inquiry. If I have regrets, I regret not fully apprising John McAllion of the situation.

Alex Neil: But he made it clear that, in his view, the papers were vital for the inquiry.

Tricia Marwick: His view was formed by the view of Dorothy-Grace Elder. He made it quite clear that she had told him how vital the papers were for the inquiry. He took the view of Dorothy-Grace Elder—he had not formed a view entirely of his own.

As I have already indicated, the photocopies were not vital for the report; they were never vital for the report. Ms Elder obviously gave her side of the story.

Mr MacAskill: This is the same Ms Elder who had approached security and the police, advising them that we had stolen papers. I had a discussion with the police about that, because I spent 18 years as a defence agent, primarily in the city, and I know what constitutes the law of theft and what does not. Should we have been more compromising? That may, arguably, be suggested, but the fact of the matter is that we were dealing with somebody who was not looking for compromise, given that we were having to address security issues. That coloured my position on the way in which I should respond to Ms Elder, and I made that quite clear to my colleague.

Alex Neil: Do you think that you would have acted differently had Ms Elder still been in the SNP group?

Tricia Marwick: If you found that your researcher was working for Kenny MacAskill and me without your knowledge, and working—

Alex Neil: No, I am talking about the document—

Tricia Marwick: Wait a minute, Alex. If you found that your researcher was working for someone else for seven hours at a time, I think that you would, at the very least, be a bit annoyed about it.

Mr MacAskill: It is a hypothetical question. My general inclination is to say that I would not have

acted differently. However, we are dealing with a specific complaint, not a hypothetical situation.

The Deputy Convener: Indeed we are.

Donald Gorrie: You argue that the fact that the report was eventually written and delivered proves your point that the papers were not necessary. It is certainly claimed that the report was greatly delayed. Do you think that your action delayed a report by a parliamentary committee?

Tricia Marwick: I thank you for giving me the opportunity to address that point.

Ms Elder was set a deadline of 11 March, when the Public Petitions Committee would consider her draft report. On 11 March, the Public Petitions Committee considered her draft report. She met that deadline and she met the deadline for publication, too. I have circulated an extract from the Public Petitions Committee meeting of 11 March, at which members discussed Ms Elder's report. Unusually, they discussed it in public and it was quite clear that they had also discussed the analysis of the questionnaires, which was part of her report.

There was absolutely no delay whatever in Ms Elder's meeting the deadline. I should also say that, by that point, Ms Elder had the full-time assistance of Ms Spowart, who had been sacked by us on 3 February.

Donald Gorrie: If I have understood you correctly, you think that the fact that, in your understanding, all the papers were photocopies, is critical to the whole matter, because that means that the papers did not necessarily belong to Ms Elder and to the committee. If you had been satisfied that some of the papers were original, what would you have done?

Tricia Marwick: That is a hypothetical question, but if there had been originals we would have considered approaches to us. However, the papers were not originals but photocopies. I knew that from the time when I examined the documents on 21 February. Your question is hypothetical; I would have had to consider such a matter very carefully. In truth, I do not know what my reaction would have been. However, the committee knows from the evidence that it already has that I expressed my willingness from day 1 to assist the Public Petitions Committee in returning documents that belonged to it. Indeed, I said in one of my e-mails to Steve Farrell that if I had evidence that any material was generated by Ms Elder or her staff, I would return it. I had no such evidence on that file; I had no evidence that any of the material was directly generated by Dorothy-Grace Elder or by her staff. We retained it on account of matters that we considered to be important.

Donald Gorrie: You introduced the word “directly”, in talking about whether the papers were “directly generated”. Ms Elder’s argument was that she had put in a great deal of work in visiting the villagers and organising questionnaires, with Mary Spowart carrying out the statistical assessment and so on. Are you arguing that the papers had nothing to do with the Public Petitions Committee, and that they were in no way the property of the committee or relevant to the work of Dorothy-Grace Elder as a reporter for the committee?

13:00

Tricia Marwick: The Public Petitions Committee did not endorse the report until 31 March. Until then, and until the draft report was produced, the report was not the work of the committee; it was the work of Dorothy-Grace Elder, reported to the Public Petitions Committee. She was instructed to go away, work on her own initiative and bring back a report, consulting where necessary. However, until such time as a report is adopted by a committee, it is not that committee’s property.

Mr MacAskill: You have to look at matters logically, and for a causal link. If, for example, I were instructed by the Audit Committee to act as a reporter, I would be doing so for the benefit of the Audit Committee, for which I am reporting. It would be up to me—doubtless in conjunction with the clerk to that committee—what resources I could input myself and what resources might be available from the committee. If the Audit Committee asked me to carry out an inquiry and I said that, in order to do so, I wanted Donald Gorrie’s researcher, you might legitimately say that that was not an instruction from the Audit Committee but a request by me as an individual. Such a request may or may not be considered.

We are not dealing with a formal request by the Public Petitions Committee to Tricia Marwick or to me to co-operate fully; we are dealing with an action that had been taken by an individual MSP without discussing it and without giving the courtesy of intimation. That MSP was utilising resources that were being paid for by another MSP while they should have been working in other spheres. I do not think that the link exists.

The ultimate benefit was to the Public Petitions Committee, and the matter is something that I would happily assist with. However, simply being a part of that process does not give an individual MSP carte blanche to utilise as they see fit resources from anywhere in the Parliament. It is up to that individual to consider what resources they have as an individual, what resources the relevant parliamentary committee or the Parliament can provide for them and what further resources they might seek to acquire, borrow or hire in as opportunity dictates, from within or without the Parliament.

Tricia Marwick: Ms Elder approached the Public Petitions Committee and asked for an adviser—rather, the Public Petitions Committee decided some time in December that there was to be an adviser to Ms Elder. Dr Curnow was subsequently appointed as Ms Elder’s adviser. We have already heard evidence that Dr Curnow had all the questionnaires. He was authorised to do this. He was legitimately working on behalf of the Public Petitions Committee. Ms Spowart, on the other hand, was not authorised. She was approached individually by Dorothy-Grace Elder. She had no authority whatever from the Public Petitions Committee to work for Dorothy-Grace Elder or for the committee.

There is a significant difference between the position of Dr Curnow and Dorothy-Grace Elder’s asking Mary Spowart to do work on her behalf. I am quite sure that any adviser appointed by the Public Petitions Committee would treat material, particularly confidential material, with great care. Ms Spowart was unauthorised, and she did not treat the material concerned with great care. I treated the material with far greater care than Ms Spowart did.

The Deputy Convener: If all members have finished, I thank Mrs Marwick and Mr MacAskill for accepting our invitation to give evidence and for the remarks that they have made today.

We now move to our final agenda item, under which the committee will consider the oral and written evidence that it has received and discuss its next steps. As agreed at the beginning of the meeting, we now move into private session. I ask members of the public and the press and official report and broadcasting staff to leave the room. Thank you.

13:03

Meeting continued in private until 13:30.

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