

# **STANDARDS COMMITTEE**

Tuesday 7 October 2003  
*(Morning)*

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2003.

Applications for reproduction should be made in writing to the Licensing Division,  
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ  
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate  
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The  
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now  
trading as The Stationery Office Ltd, which is responsible for printing and publishing  
Scottish Parliamentary Corporate Body publications.

---

# CONTENTS

**Tuesday 7 October 2003**

	<b>Col.</b>
<b>COMPLAINT .....</b>	<b>95</b>

---

## **STANDARDS COMMITTEE**

### **† 8<sup>th</sup> Meeting 2003, Session 2**

#### **CONVENER**

Tricia Marwick (Mid Scotland and Fife) (SNP)

#### **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)

\*attended

#### **COMMITTEE SUBSTITUTES**

Lord James Douglas-Hamilton (Lothians) (Con)

Marilyn Livingstone (Kirkcaldy) (Lab)

\*Alasdair Morgan (South of Scotland) (SNP)

#### **CLERK TO THE COMMITTEE**

Sam Jones

#### **SENIOR ASSISTANT CLERK**

Sarah Robertson

#### **LOCATION**

The Hub

**† 7<sup>th</sup> Meeting 2003, Session 2—held in private.**



## Scottish Parliament

### Standards Committee

*Tuesday 7 October 2003*

*(Morning)*

[THE DEPUTY CONVENER *opened the meeting at 10:31*]

### Complaint

**The Deputy Convener (Mr Kenneth Macintosh):** Good morning everyone, and welcome to the eighth meeting of the Standards Committee in this session. Our only item of business this morning is to announce our decision on a complaint against Kenny MacAskill and Tricia Marwick, following our investigation. It may help if I briefly remind everyone of the complaint and the acting standards commissioner's findings.

In February 2003, Dorothy-Grace Elder alleged that Kenny MacAskill and Tricia Marwick had acted in breach of paragraph 9.2.5 of the "Code of Conduct for Members of the Scottish Parliament" by retaining a file. The file consisted mostly of health questionnaire returns relating to an inquiry into the dumping of organic waste in Blairingone and Saline, which Dorothy-Grace Elder was undertaking as a reporter for the Public Petitions Committee in the first parliamentary session.

Paragraph 9.2.5 of the code of conduct states:

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

In her letter setting out the complaint, Dorothy-Grace Elder alleged that the refusal of the members to return what she described as "this vital file" meant that she could not possibly do the work on behalf of the Public Petitions Committee. The complainer alleged that the file was in the desk of a researcher employed by Kenny MacAskill and Tricia Marwick who had been dismissed earlier in the month. Dorothy-Grace Elder claimed that the members refused to hand over the material, despite requests from the convener and clerk of the Public Petitions Committee and an approach from George Reid MSP.

The acting standards commissioner carried out an investigation into the complaint and found that Dorothy-Grace Elder placed the work in the hands of the researcher employed by Kenny MacAskill and Tricia Marwick, and that the material was retained by the members concerned as possible evidence in connection with a possible

employment dispute. The commissioner found that retention of the documentation, which comprised photocopies, did not prevent Dorothy-Grace Elder from carrying out her work on behalf of the Public Petitions Committee, as she already had the original documentation. The commissioner concluded that, in those circumstances, retention of the documentation did not amount to discourtesy or disrespect towards another member and there was no breach of paragraph 9.2.5 of the code of conduct.

Those were the commissioner's findings. I propose to go round the table to invite members to state their decision on this complaint.

**Bill Butler (Glasgow Anniesland) (Lab):** I concur with the entire content of the committee's report and its conclusion. I highlight paragraph 21, in which the committee expresses

"its profound disappointment that a seemingly trivial dispute between Members became the subject of an investigation by the Standards Commissioner and the Standards Committee and that those concerned were unable to broker a compromise at a far earlier stage."

That is all I have to say.

**Donald Gorrie (Central Scotland) (LD):** I, too, support the committee's report. Tricia Marwick and Kenny MacAskill made serious errors of judgment in not responding more positively to the approaches by the convener and clerk of the Public Petitions Committee and the Presiding Officer to resolve the dispute, and thereby contributed to bringing the Parliament into disrepute. In strict accordance with the rules, I do not believe that this specific complaint should be upheld.

**Alex Fergusson (Galloway and Upper Nithsdale) (Con):** As you are aware, convener, I was unable to be with the committee last Wednesday when it concluded the final report. I believe that this complaint has come as close to breaching paragraph 9.2.5 of the code of conduct as it is possible to do without doing so. However, I am persuaded that the possible on-going employment dispute involving the researcher, to which the deputy convener referred in his statement, sufficiently clouded the judgment of the two MSPs complained against, thus leading to the somewhat entrenched position that they took and which is referred to in the report. I am completely happy to uphold the findings of the report.

**Karen Whitefield (Airdrie and Shotts) (Lab):** Like other members of the committee, I agree whole-heartedly with the findings of the committee, and support the recommendation that the complaint not be upheld on this occasion. However, like my colleague Bill Butler, I draw people's attention to paragraph 21, which highlights the entrenched positions of all parties

involved in this complaint. It was unfortunate that a solution could not be found prior to the matter coming before the Standards Committee.

**Alasdair Morgan (South of Scotland) (SNP):** I agree with the committee's conclusion that the complaint against Tricia Marwick and Kenny MacAskill should not be upheld. However, I voted against certain sections of the report being included. At one of our meetings I expressed surprise that the committee was undertaking a further investigation following that by the acting standards commissioner, in view of what I thought was the relative unimportance of the matter, which the committee's report itself describes in paragraph 21 as "a seemingly trivial dispute". I note that paragraph 8 of the report states:

"the Standards Committee decided"—

this was before I joined as a substitute member—

"that it wished to clarify certain issues ... which did not appear to have been covered in sufficient depth in the Commissioner's report."

The conclusion I draw from the additional evidence taken is that the detail of the commissioner's report was sufficient and commensurate with the importance of the issues covered. However, after the committee embarked on that course, it appeared to me that the final report, while not upholding the complaint, was unnecessarily critical of Tricia Marwick and Kenny MacAskill. For example, I moved to delete the last sentence in paragraph 15, which states:

"We are surprised by the failure of Kenny MacAskill and Tricia Marwick to ascertain the status of the papers."

Although in an ideal world matters might have progressed more amicably had that been done, I do not feel that under the circumstances their action was unreasonable. We have to put ourselves in the position of those members, who had discovered that their researcher was being used without their knowledge by another MSP and, moreover, by one who was a former member of their own political party who had recently left that party under somewhat acrimonious circumstances.

I was anxious that our procedure, which was such that the conduct of those complained against was investigated much more than that of the complainant, would not lead us into publishing a report that unnecessarily criticised people whom we were about to find innocent of any offence. Partly for that reason, I moved to delete the section that consisted of comments on people's actions, but in doing so I was also reflecting my belief that, once the committee had mistakenly decided to take further evidence, its best course of action was simply to report that it had decided to uphold the finding of the commissioner. It was argued that the committee was obliged to include

information to justify its conclusions, but I feel that some comments in the report do not assist in fulfilling that requirement.

**Alex Neil (Central Scotland) (SNP):** I concur with the committee's report and its conclusion. I think that the additional investigation was justified by the additional information that we obtained. I heard on this morning's radio that the investigation has been described both as malicious and as a fudge and a whitewash. I believe it to be neither. It produced a fair and objective report on what happened. It was essential to do the additional work on top of what the acting commissioner did.

**The Deputy Convener:** I, too, find it unfortunate that the members involved allowed a petty dispute over a file of papers to escalate into an investigation by the Standards Committee. I despair and disapprove of the intransigence shown, which will not have added to the reputation of the members or, more important, of the Parliament. I also regret the unwillingness of the members involved to show any contrition for their behaviour. However, clearly there are mitigating circumstances, and I do not believe that there was a breach of the code of conduct. I agree with the commissioner that the complaint should not be upheld.

If there are no further comments, I tell the public and the press that the committee's report on this complaint will be published directly after the meeting, which I now close.

*Meeting closed at 10:40.*

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Friday 17 October 2003**

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

#### PRICES AND SUBSCRIPTION RATES

##### DAILY EDITIONS

*Single copies: £5*

*Meetings of the Parliament annual subscriptions: £350.00*

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

*Single copies: £3.75*

*Special issue price: £5*

*Annual subscriptions: £150.00*

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

**The Stationery Office Bookshop**  
71 Lothian Road  
Edinburgh EH3 9AZ  
0870 606 5566 Fax 0870 606 5588

**The Stationery Office Bookshops at:**  
123 Kingsway, London WC2B 6PQ  
Tel 020 7242 6393 Fax 020 7242 6394  
68-69 Bull Street, Birmingham B4 6AD  
Tel 0121 236 9696 Fax 0121 236 9699  
33 Wine Street, Bristol BS1 2BQ  
Tel 01179 264306 Fax 01179 294515  
9-21 Princess Street, Manchester M60 8AS  
Tel 0161 834 7201 Fax 0161 833 0634  
16 Arthur Street, Belfast BT1 4GD  
Tel 028 9023 8451 Fax 028 9023 5401  
The Stationery Office Oriel Bookshop,  
18-19 High Street, Cardiff CF1 2BZ  
Tel 029 2039 5548 Fax 029 2038 4347

**The Stationery Office Scottish Parliament Documentation**  
Helpline may be able to assist with additional information  
on publications of or about the Scottish Parliament,  
their availability and cost:

**Telephone orders and inquiries**  
0870 606 5566

**Fax orders**  
0870 606 5588

**The Scottish Parliament Shop**  
George IV Bridge  
EH99 1SP  
Telephone orders 0131 348 5412

**RNID TYPETALK calls welcome on**  
18001 0131 348 5412  
Textphone 0131 348 3415

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers