



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Thursday 4 June 2015

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
10th Meeting 2015, Session 4

CONVENER

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

DEPUTY CONVENER

*Margaret McDougall (West Scotland) (Lab)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Cameron Buchanan (Lothian) (Con)

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab)

*Gil Paterson (Clydebank and Milngavie) (SNP)

*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Mark Griffin (Central Scotland) (Lab) (Committee Substitute)

CLERK TO THE COMMITTEE

Gillian Baxendine

Alison Walker

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 4 June 2015

[The Convener opened the meeting at 09:30]

Decisions on Taking Business in Private

The Convener (Stewart Stevenson): I welcome members to the 10th meeting in 2015 of the Standards, Procedures and Public Appointments Committee. I remind everybody to switch off mobile phones, as they may affect the broadcasting system. We have received apologies from Patricia Ferguson and Mark Griffin is appearing in her stead.

Our first agenda item is for members to decide whether to agree to take in private items 5 and 6. Item 5 is consideration of the rules on printed and published documents, and item 6 is consideration of the rules in the “Code of Conduct for Members of the Scottish Parliament” on cross-party groups.

Do members agree to take those items in private?

Members indicated agreement.

The Convener: Our next item is for members to decide whether to take in private at future meetings the committee’s consideration of standing order rule changes in relation to a report on published and printed documents; the approach to an inquiry into Scottish Law Commission bills; the approach to changes resulting from the Smith commission; and the consideration of confidentiality in the code of conduct.

Do members agree to take those items in private at future meetings?

Members indicated agreement.

Cross-party Groups

09:33

The Convener: Agenda item 3 is for the committee to consider an update on cross-party groups. Members will note from the monitoring report the continued improvements in the overall level of compliance with the code. Since the monitoring report was issued, the cross-party group on life sciences has scheduled two meetings—an ordinary meeting on 11 June and an annual general meeting on 16 June—and the cross-party group on the middle east and south Asia has now submitted its annual return.

Does any member wish to comment on the report before us? In particular, do we wish to take any action on non-compliant groups? I am content, as convener, for that to be dealt with by the clerks, if that helps members to come to a conclusion.

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): I have a point of correction. The list of cross-party groups includes the psoriasis and psoriatic arthritis group, but the group has changed its name to the CPG on skin and associated rheumatic conditions. However, that might have happened after the date on which the report was completed, so that is fine.

The Convener: Okay. That is a technical change, which we are quite happy with.

Are we otherwise content with the report?

Members indicated agreement.

“Code of Conduct for Members of the Scottish Parliament”

09:34

The Convener: Agenda item 4 is for the committee to consider the rules on lobbying and access to MSPs. Gil Paterson wishes to make a comment.

Gil Paterson (Clydebank and Milngavie) (SNP): Convener, I would like to withdraw from the meeting at this point. The committee will be making some decisions on this issue and it might be construed as a conflict of interest if I stayed for the discussion. I would like to withdraw from the meeting and let the committee make up its own mind without me. I will come back for the other agenda items if I am tapped on the shoulder.

The Convener: That is very helpful, Mr Paterson. Obviously, that is an individual decision for you, and in similar circumstances it will be up to other members to take their own view. I do not regard it as setting a precedent one way or the other.

Gil Paterson: Thank you for that.

The Convener: Colleagues, I invite you to comment on paper 2, on secondary employment. We have considered the matter previously, and the paper includes a helpful discussion of what it means to be a director. Despite having been a director in the past, I never realised that the term was less precise in law than I perhaps thought it was. There are certainly cases in which one is a director in law, but it is clear that one can also be a director without necessarily using the word or having a formal appointment—perhaps that is a little nudge in a particular direction for us.

Margaret McDougall (West Scotland) (Lab): If a person has another position, job or directorship, or is a member of another company, it is quite difficult to establish how much time they spend on their secondary job. How do we measure that?

The Convener: Wearing a personal hat rather than a convener's hat—others in the room will have been directors—I suspect that most directors do not keep time sheets, so any attempt formally to come to a conclusion would inevitably be an estimate, and it could probably be demonstrated not to be accurate. The objective information that we have is on the earnings that somebody might derive from an outside activity—it is clear that we have to declare that, and it seems clear that we do.

Cameron Buchanan (Lothian) (Con): I do not think that it is so much a question of time. Often, these directorships can be exercised on a

Saturday or in the evening. It is a question of remuneration and involvement, but not time—that is not in any way relevant. I am a director of four companies, two of which are charities, and the time is variable depending on whether there is a crisis in the charity, benefactors and so on—sometimes I have to go down to London and sometimes I do not. That work is not highly remunerated; it is just travel expenses—well, one is, which is declared. Therefore, I am not sure that time is relevant in this case. I am the chairman and I try to fit the time in—they suit me, if you like, rather than me suiting them. That often happens, and I would be against the banning of that sort of thing.

The Convener: But we are quite clear that any remuneration, which is an objective thing, must be declared.

Cameron Buchanan: Absolutely but, as you said, the amount of time involved can be subjective. People do not record accurately how long a meeting takes—at least, I do not.

Margaret McDougall: Paragraph 10 of paper 2 says that

“the highest annual sum for a secondary role detailed in the Register is £20,000”.

That gives no indication of the time involved—I know you feel that that is not an issue, but it is hard for anyone to gauge £20,000. What is someone doing for that, compared with an MSP's income?

The Convener: I suppose that the test for us is whether outside interests diminish someone's ability to do the job that they have been elected to do. That is perhaps the first test. The second test is whether that outside interest puts people at risk of being seen to be influenced by their involvement with it. My current position is that both those issues are covered by our existing rules. That does not mean that we should not be careful to consider whether the statement that I have just made is sustainable—I think that that is entirely proper.

It has just been drawn to my attention that paragraph 16 notes that the highest declared time commitment at the moment is 40 days a year. Without having any knowledge of the matter, I suspect that people who have declared a time commitment have been more generous than the reality, just to ensure that they are not caught out. People are not required to declare the time that is taken up by the activity, but they do.

Dave Thompson: I have a point to make, but it is not on the issue of time.

The Convener: That is fine. Let us have a free-flowing discussion to work out where we are going to go on this.

Dave Thompson: I am not against pioneering and driving forward and doing things that others are not doing, if that is the right thing to do, but having read the papers for today's meeting, I note that no other jurisdiction requires members to do what is being proposed here. That is not to say that they are all right and do not need to change. However, I would need to be convinced that there is a problem that we need to fix. If there is no problem, why are we trying to fix something that does not exist?

Having considered the definition of directors and so on in paper 2, I am worried that, in trying to fix a problem that is not apparent—at least, it is not apparent to me—we might cause more problems. As soon as we start trying to define things in relation to a problem that may or may not be real, we will get bogged down in a morass of all sorts of detail.

At the moment, if someone is involved in an activity and is getting paid, they have to declare that anyway, so the information is already public. Folk know what they are doing. If someone was spending far too much time on an activity, that would become a political issue for that member, because their opponents would soon point out to their constituents that that person was spending all that time earning cash instead of doing their job as an MSP.

I think that where we are now is not a bad position, and I note that the UK Parliament, and those in Canada, Wales, Northern Ireland, Malta—

Cameron Buchanan: Even the European Parliament.

Dave Thompson: Indeed. None of them does what is being proposed here. They might all be wrong, of course, but I just worry that the proposal might not be necessary.

The Convener: I do not think that we should be scared of setting higher standards than elsewhere. However, of course, we already do that. As far as I am aware, no other jurisdiction has the prejudice test, which is the key catch-all test. Further, the use of the phrase “could be thought to” in lots of our rules means that the approach is about perception, not simply the objective view of what a member does. I suspect that we are probably pretty tight.

I am in your hands, colleagues. What do we wish to do with this?

Margaret McDougall: I know that it probably has not happened, but what would happen in a case in which an MSP did not declare that there was a conflict, perhaps because he or she did not feel that there was a conflict between their role as an MSP and their secondary post, even though others did?

09:45

The Convener: I will take advice but, of course, anyone who felt that the situation failed the prejudice test and the “could be thought to” test could refer the issue and it would then be objectively considered. We have a process for dealing with that.

I do not want to name names, because it is invidious to do so, but in the first two sessions of this Parliament, one member spent a great deal of his time working as a Queen's counsel. At the end of the day, that might have played a part in the fact that he did not get re-elected at the end of session 2. I suspect that there were more important factors related to that, but the point is that his role was very much public and was properly reported. As Dave Thompson suggests, it became a matter of political comment from time to time, and that was probably as far as it could reasonably interact with what went on. However, I think that that is the only case in which an MSP has had what might be thought to be a full-time job—or, at least, a significant part-time job with significant earnings—outside their job as an MSP.

I think that looking at paper 2 has been a useful exercise. It seems that our present position is that we do not identify any actions that need to be taken as a result. Is that the view of the committee?

Members indicated agreement.

The Convener: Thank you very much. We will now continue our meeting in private.

09:46

Meeting continued in private until 10:57.

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e-format first available
ISBN 978-1-78568-737-2

Revised e-format available
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