OFFICIAL REPORT
AITHISG OIFIGEIL

Session 5

Standards, Procedures and Public Appointments Committee

Thursday 27 September 2018

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 27 September 2018

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
17th Meeting 2018, Session 5

CONVENER
*Bill Kidd (Glasgow Anniesland) (SNP)

DEPUTY CONVENER
*Mark Ruskell (Mid Scotland and Fife) (Green)

COMMITTEE MEMBERS
*Jamie Halcro Johnston (Highlands and Islands) (Con)
*Tom Mason (North East Scotland) (Con)
*Gil Paterson (Clydebank and Milngavie) (SNP)
*Elaine Smith (Central Scotland) (Lab)
*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

*attended

CLERK TO THE COMMITTEE
Katy Orr

LOCATION
The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 27 September 2018

[The Convener opened the meeting at 09:38]

Decision on Taking Business in Private

The Convener (Bill Kidd): Good morning. This is the 17th meeting in 2018 of the Standards, Procedures and Public Appointments Committee. I ask everyone to turn off any electronic equipment such as phones that might go off and thereby interfere with the recording of the committee.

Agenda item 1 is a decision on taking business in private. Does the committee agree to take in private item 4, which is on the code of conduct for MSPs, and item 5, which is a discussion of correspondence that we have received?

Members *indicated agreement.*

Cross-party Group

09:39

The Convener: Agenda item 2 is consideration of correspondence received from Mr Sammy Stein with regard to a cross-party group.

In 2017, Mr Stein wrote to the committee to complain about the CPG on Palestine. The committee convener at the time confirmed that non-MSP membership of a cross-party group is a matter for the group itself and concluded that the CPG on Palestine had therefore not broken the rules in relation to its membership arrangements. The focus of today's discussion is a letter that Mr Stein wrote to the committee in March, in which he asked for the rules on CPGs in the code of conduct to be reviewed. In that letter, Mr Stein makes five specific recommendations that members will have read.

Before I invite members' views on Mr Stein's suggestions, I want to provide a little bit of background on cross-party groups that I hope will be relevant. As members will know, there are now 104 CPGs in Parliament, and they cover a wide range of subjects and issues, some of which are of a sensitive nature.

The work of CPGs is not formal parliamentary business, although the groups tend to meet in the Parliament as MSPs are able to book rooms here, mainly in the evenings when the Parliament is closed. CPGs do not have access to any financial or staffing resources from the Parliament for their meetings and the code of conduct requires them to respect the limitations on the use of parliamentary facilities. Under the code of conduct, any decision about membership is a matter for the group itself, and groups are within their rights to refuse non-members entry to the meeting. As members are aware, changes to the code of conduct are normally the subject of detailed consideration and consultation by the committee, and ultimately the decision on whether to make changes is for the Parliament.

I hope that that was straightforward, and I now invite comments from committee members on this issue.

Elaine Smith (Central Scotland) (Lab): I have read the paperwork carefully. Having been a member of the Parliament since 1999 and having been the convener and co-convener of various cross-party groups, I clearly take an interest in the matter.

Over the years, I have often believed that there is something of a misunderstanding about the purpose of cross-party groups. MSPs set them up as a way of allowing members to explore subjects

of common interest and thereby inform their work in what might considered as a safe space with no party-political argy-bargy going on. After all, the groups are by their very nature cross-party, and they require cross-party agreement to get set up. If those groups are not working out and are not informing MSPs' work, the MSPs—and only the MSPs—can decide to dissolve them.

CPG meetings are not are public meetings. Indeed, I have sometimes had to explain that to cross-party groups in which I have been involved. Most—though not all—of the groups meet in the evenings in Parliament, which actually closes to the public at 6 o'clock at night. That makes it clear that they are not public meetings.

Recently, some members of the public wanted to come to a meeting that I was convening. I had to change the time of the meeting—in line, I should say, with the rules on cross-party groups—because the MSPs involved could not comply with the original timings. However, the members of the public who had wanted to come and listen did not get that message, because they were not members of the cross-party group and did not check the website. As a result, they turned up rather late. Nevertheless, the meeting has to be run for the MSPs, and as I have said, I changed the time in line with the rules for advertising cross-party group meetings. There are also confidentiality issues with some of the cross-party groups that I have been involved with.

It is therefore reasonable for the office-bearers, who are mainly MSPs—certainly the conveners are—to take decisions with regard to the groups. As I have said, they could decide to dissolve a particular group if things were not working out. Moreover, if other MSPs on a group do not like the direction in which a convener is taking it, they can, at the group's annual general meeting, ask the convener to step down.

Furthermore, some of the cross-party groups in which I have been involved deal with sensitive issues, and members of the group might want to share their experiences in a safe space. We need to be cognisant of that fact when we consider this issue.

Finally, I do not think that this committee can start micromanaging cross-party groups. It is up to the groups to run their own operations under the rules that we have.

09:45

Gil Paterson (Clydebank and Milngavie) (SNP): I will tell the committee about an experience that I had. In 1999, I set up the first cross-party group on men's violence against women and children. Members of the group included Rape Crisis Scotland, Zero Tolerance,

Scottish Women's Aid and a host of large and small organisations. The group received publicity and in its early stages—I do not remember exactly how many months into the group's existence this was—I received an email from a number of men who insisted that the group's raison d'être should cover violence against men. The men also asked to attend meetings.

As the convener, I decided against both those things. From memory, I am sure that I did not seek anyone's approval for that. A meeting was due to happen and I did not want people to turn up and be disappointed, so I said no to both points. When I explained the circumstances to the group—it was big and still is to this day—everyone agreed with my action. Maybe I should have canvassed opinion, but I am fairly certain that I did not do that.

It is important to recognise that there is violence against men, but it tends to be by men on men. There is no question but that there is also violence by women against men, but our focus was on the effects on women and children, rather than the effects on men. I encouraged the men who approached me to engage with MSPs—although not me or my group—about forming another cross-party group, if they wanted to pursue the issue, which maybe needed to be heard. The men were not very pleased at that and were still pretty insistent that they should be able to attend my group's meetings.

I want not to talk about specifics, other than that example, but to look at the range of groups. We can imagine the issues that a cross-party group on men's violence against women and children is likely to discuss, and we know that victims will attend its meetings. It would be problematic to allow someone who the group was uncomfortable with to attend the group's meetings.

The issues are access to groups and their mission statements. If meetings were open to the public, the press would be there. In the cross-party group on men's violence against women and children, the last thing that we would want is for the press to be involved—meetings would never happen if the press were able to sit in on them.

Groups deal with such operational matters so that they can function properly and talk about serious things in a way that enlightens MSPs. There is no question but that groups try to influence MSPs; the groups explain, in a private space, what is happening in the real world. Such meetings must be private.

Mark Ruskell (Mid Scotland and Fife) (Green): It is useful and welcome to receive such a letter, because it allows us to reflect on the purpose and function of cross-party groups. However, I agree with Elaine Smith and Gil Paterson that there is a misunderstanding here

about what cross-party groups are. Their meetings might take place in a building that is a public institution, but the meetings are ultimately private. Given that context, I feel that the recommendations that have been suggested to us are not appropriate.

One recommendation relates to providing reasons for the rejection of an application and one relates to providing reasons for the expulsion of a member. Some cross-party groups might be in a position to provide reasons, and that might be the polite thing to do, but it would be inappropriate for some cross-party groups, particularly those that work with vulnerable people and involve sensitivities—Gil Paterson has given an example of such a case—to provide a formal statement of reasons. It is not appropriate for the committee to try to create a management manual for CPGs. As the convener said, there are 104 CPGs, and they cover a wide variety of topics and some extremely vulnerable people. It should be for an individual CPG to determine what is appropriate in how it manages its work, so I would not accept the recommendations. However, it has been useful for the committee to see them, because they have enabled us to reflect on our position.

Jamie Halcro Johnston (Highlands and Islands) (Con): I agree with a lot of what has been said. I recognise the points that have been made by Elaine Smith, Gil Paterson and Mark Ruskell about the suitability of everybody being able to attend every event and about the make-up of cross-party groups and what they are. However, the public perception of cross-party groups might be very different from how they are constituted in the Parliament's code of conduct, and that has a bearing on how we do business here. We need to recognise that we cannot educate everybody on exactly what CPGs are.

The default position should be that people should be able to attend cross-party group meetings. However, it would be acceptable, right and fair for some people to be excluded from the groups under the particular circumstances that have been outlined—there will be other reasons, too. In normal circumstances, it should be good practice to advise people, when possible and practical, on why they might be refused membership of, or excluded from, a cross-party group, but I accept that there will be circumstances when that will not be possible because of the reasons that have been outlined.

Tom Mason (North East Scotland) (Con): I am comparatively new to this issue. Cross-party groups need a large degree of freedom in what they do, but good practice and good manners are necessary when they make decisions. In normal circumstances, providing some explanation for such decisions should be encouraged. The words

"normal" and "encouraged" should be emphasised, because there are cases in which doing that would not be appropriate. The convener and the MSPs on the CPG would need to make that judgment.

CPGs are very varied in what they do. Some like public exposure and can get it quite easily, and others need to look at very detailed private matters. The issues that some groups discuss can be very personal and private, and any public exposure or providing of reasons publicly might be detrimental to certain individuals. Therefore, I would support a light-touch approach, with some guidance on what might be good practice.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): The vast majority of cross-party groups work well, but there have been some groups—I think that Elaine Smith was involved with one—that have needed to be dissolved because the situation became unworkable. That is a very rare occurrence, but we must be aware that matters can sometimes get into such a complicated state that action needs to be taken to keep the cross-party group working properly. Otherwise, such groups need to be dissolved, and that is often not good for the people who have been involved in the group or who, in some cases, see it very much as a support group. As other members have said, it is important that cross-party groups are as open and transparent as possible, but they also need to be able to discuss what action to take in what can be very difficult—and very rare—situations.

The Convener: Everyone has had a good opportunity to express themselves. There is a wee bit of variation among views, but there is a broad general direction. It will be for the committee to decide whether this approach is right or wrong, but the clerks of the committee might want to contact all 104 cross-party groups with a reminder of the rules on membership of CPGs in the code of conduct. In doing so, the clerks could remind cross-party groups that any decision about membership, including whether to limit the number of non-MSP members, is a matter for the group itself. The clerks could also suggest that cross-party groups may, depending on the circumstances, wish to reflect on how they can ensure an appropriate level of transparency in their decisions on membership. Does that seem reasonable?

Gil Paterson: I think so. I am always conscious of law, instruments and advice, and we need to be careful that whatever we decide is suitable for the slowest ship in the convoy. What the convener has described would cover all the groups, not cause any disturbance in any way and encourage best practice.

The Convener: Ensuring best practice is the right approach. Do we agree to the clerks taking

the approach that I have outlined, on behalf of the committee, and reporting back to us?

Members *indicated agreement.*

Commissioner for Ethical Standards in Public Life in Scotland

09:57

The Convener: Under agenda item 3, the committee must agree the commencement and transitional arrangements for the revised direction to the Commissioner for Ethical Standards in Public Life in Scotland. The committee previously approved the revised direction, and it is now required to approve the commencement date and transitional arrangements, which are set out in the cover note that members received. Do members agree to the commencement and transitional arrangements, as provided?

Members *indicated agreement.*

09:58

Meeting continued in private until 10:43.

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