

STANDARDS AND PUBLIC APPOINTMENTS COMMITTEE

Tuesday 7 June 2005

Session 2

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STANDARDS AND PUBLIC APPOINTMENTS COMMITTEE

5th Meeting 2005, Session 2

CONVENER

*Brian Adam (Aberdeen North) (SNP)

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)
Linda Fabiani (Central Scotland) (SNP)
Alex Fergusson (Galloway and Upper Nithsdale) (Con)
*Donald Gorrie (Central Scotland) (LD)
*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE SUBSTITUTES

Lord James Douglas-Hamilton (Lothians) (Con)
Marilyn Livingstone (Kirkcaldy) (Lab)
Alasdair Morgan (South of Scotland) (SNP)

*attended

CLERK TO THE COMMITTEE

Jennifer Smart

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

Committee Room 5

Scottish Parliament

Standards and Public Appointments Committee

Tuesday 7 June 2005

[THE CONVENER opened the meeting at 11:00]

Items in Private

The Convener (Brian Adam): I welcome everyone to the fifth meeting of the Standards and Public Appointments Committee in 2005 and ask everyone to switch off their mobile phones. We have received apologies from Linda Fabiani and Alex Fergusson. Members should also note that Ken Macintosh resigned from the committee on Thursday 2 June.

Item 1 is consideration of whether to take items 4 and 5 in private. Given our previous discussions, we do not have a lot of choice in the matter. I take it that members are content to take those items in private.

Members indicated agreement.

Complaints

11:00

The Convener: Item 2 is the announcement of the committee's decision at stage 3 on the Scottish parliamentary standards commissioner's report regarding a complaint against Jack McConnell MSP. I make this announcement on behalf of the whole committee.

Over the new year period of 2002-03, Mr McConnell and his family travelled to Mallorca to stay with friends and their family in their friends' house. Mr McConnell and his family made a similar visit over the new year period of 2004-05. The friends who own the house are Kirsty Wark and Alan Clements.

The standards commissioner investigated five complaints in relation to the visits, which were that Mr McConnell failed to register gifts of hospitality and overseas visits in the register of members' interests. Members are required to register gifts where the value of the gift exceeds £250. In relation to overseas visits, members should register overseas travel, although one exception to that requirement is where the costs are wholly met by the member.

In paragraph 66 of his report, the standards commissioner concludes that there was no gift of a benefit in kind to the member as there was

"no cost which the McConnells could reasonably have been expected to pay which was met for them by the Clements".

As such, there is no need for registration and therefore no breach of the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 or the code of conduct for MSPs.

That is because for the periods of time that the McConnell family were in residence, the Clements family were also present. The standards commissioner concludes that it would have been an entirely different matter if the McConnells had been given exclusive use of the house by the Clements family as, when not in residence, they occasionally rent out the house for an agreed sum, and that would have constituted a gift to the member.

As for overseas visits, Mr McConnell reports in the standards commissioner's report that the members of the McConnell family booked and paid for their own return flights to Mallorca and for the hire of a car. No charge was to be made for accommodation as a charge applies only when the house is not occupied by the Clements family. The standards commissioner concludes that Mr McConnell's visits to Mallorca were overseas visits, the costs of which were wholly met by the member, and accordingly do not fall to be

registered. As a result, there is no breach of the members' interests order or the code of conduct for MSPs.

The Standards and Public Appointments Committee considered the commissioner's report at its meeting on 31 May 2005. It has accepted the commissioner's findings on the facts of the complaint and agrees with his conclusion that Mr McConnell did not breach the members' interests order or the code of conduct for MSPs. Copies of this announcement and the commissioner's report will be available just after this meeting goes into private session.

Item 3 is our opportunity to announce our decision at stage 3 on a report by the standards commissioner regarding a complaint against Kenneth Macintosh MSP.

In August 2004, Mr Macintosh took part in an interparliamentary charity football match and received hospitality, overnight accommodation in Cardiff and a match ticket from the match sponsors, McDonald's Restaurants Ltd. Members are required to register such items as gifts in the register of members' interests if their value exceeds £250. Under the members' interests order, the member is also required to register a gift not later than 30 days after acquiring the gift.

At the time of the event, Mr Macintosh was not provided with the costs associated with hospitality and the accommodation by McDonald's. He subsequently sent e-mails to McDonald's on 21 October and 6 December 2004 and again on 17 January 2005 to request information about the costs.

On 21 January 2005, Mr Macintosh registered the interest with an estimated value in excess of £250, stating that the actual value had still to be confirmed. A complaint was made to the standards commissioner on 25 January 2005 that Mr Macintosh registered the interest outwith the statutory 30-day time period. Mr Macintosh subsequently received confirmation of the costs—£330—from McDonald's on 18 March 2005.

The standards commissioner reports that the facts of the matter are straightforward and are not disputed in any way by Mr Macintosh. The commissioner concludes that, in registering an interest outwith the prescribed 30-day time period, Mr Macintosh is in breach of article 4(6) of the members' interests order.

The Standards and Public Appointments Committee considered the commissioner's report at its meeting on 31 May 2005. It agrees with the findings and with the commissioner's conclusion that Mr Macintosh breached article 4(6) of the members' interests order.

The committee has taken note of Mr Macintosh's efforts to extract the exact figure for the costs from

McDonald's. The e-mails sent to McDonald's by Mr Macintosh clearly show that he had every intention of publishing the information when he received it, as he did on the occasion of a similar visit to Cardiff in 2003. The committee can see no reason why Mr Macintosh would have had cause to register the interest in one year but decide not to do so in the following year and accepts Mr Macintosh's explanation that it was "an oversight" on his part.

The committee is mindful that the members' interests order requires members to lodge statements of interests, even if such statements are lodged outwith the specified 30 days. The committee recognises that Mr Macintosh was planning to register the interest when he knew the costs.

The committee concludes that there was no wilful intention to deceive the public or the Parliament on the part of Mr Macintosh.

Setting aside Mr Macintosh's intention, the committee has agreed that his actions constitute a breach of the members' interests order. The code of conduct for MSPs makes it clear that responsibility for registering interests lies with each individual member and that a breach of the order is not a matter to be considered lightly. Mr Macintosh himself has recognised that, given his position as deputy convener of the Standards and Public Appointments Committee, the matter is a cause of embarrassment to both himself and the committee. He has apologised to the committee and has offered his resignation from the committee to the Presiding Officer.

The committee accepts the fact of the resignation of Mr Macintosh. It has also taken into account the public embarrassment suffered by Mr Macintosh in January 2005 and the anticipated further public comment that will arise from the consideration of this complaint and subsequent publication of this report. Given that, the committee feels that in this case it would not be appropriate to apply a further sanction under rule 10.3 of the code of conduct.

That concludes the committee's statement. Copies of this statement and the commissioner's report will be available right now.

The meeting will now move into private session to consider our report. That report will be published—as they say in the best parlance—in due course, which means within the next day or two, and will simply dot the i's and cross the t's of the committee's response.

I now ask the public to leave the meeting.

11:09

Meeting continued in private until 11:17.

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Tuesday 14 June 2005

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