

STANDARDS AND PUBLIC APPOINTMENTS COMMITTEE

Tuesday 23 May 2006

Session 2

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STANDARDS AND PUBLIC APPOINTMENTS COMMITTEE

5th Meeting 2006, Session 2

CONVENER

*Brian Adam (Aberdeen North) (SNP)

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

*Linda Fabiani (Central Scotland) (SNP)

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

*Donald Gorrie (Central Scotland) (LD)

*Christine May (Central Fife) (Lab)

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE SUBSTITUTES

Lord James Douglas-Hamilton (Lothians) (Con)

Paul Martin (Glasgow Springburn) (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 23 May 2006

[THE CONVENER *opened the meeting at 11:00*]

Cross-party Group

The Convener (Brian Adam): Welcome to the Standards and Public Appointments Committee's fifth meeting in 2006. I ask members who have not switched off their mobile phones to do so now. We have apologies from Donald Gorrie—unfortunately, the Procedures Committee meets on the same cycle as we do, but we hope that the clerks will address that after the summer recess.

We move to agenda item 1. We have received a letter from Robin Harper about the cross-party group on renewable energy. As members will have seen, the group was formed in 2000 and has met five or six times a year in this parliamentary session. Energy issues are topical and Mr Harper has provided background information in his letter and an argument for expanding the group's remit. Do members have questions or comments?

Karen Whitefield (Airdrie and Shotts) (Lab): How up to date is the group's membership list? I notice that George Lyon is listed as a member, but I assume that he resigned his membership when he took ministerial office.

The Convener: I noticed another discrepancy: my colleague Mr Lochhead is listed as having been a member, then as having left, which I presume is because he was—at least temporarily—not a member of the Parliament. The list reflects the position in 2003, when Mr Lyon was not a member of the Government. We have a current list—such lists are maintained. However, the system relies on members advising the clerks of changes.

Bill Butler (Glasgow Anniesland) (Lab): The request from Mr Harper is eminently reasonable. I have no problem with revising the CPG's title and remit.

Christine May (Central Fife) (Lab): I have nothing to add.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I agree completely. The proposal is commendable because, rather than creating another group—which Robin Harper said in his letter was a slight temptation—we can keep the number of groups to a sane level by widening the group's remit.

The Convener: I suspect that the committee widely welcomes your last point.

Christine May: That will be discussed at greater length later in the meeting.

The Convener: Indeed.

I take it that members are content with the deputy convener's suggestion that we agree to change the group's remit and title. The clerks will write to Mr Harper with the committee's decision. Is that agreed?

Members indicated agreement.

Petition

Parliamentary Standards (PE951)

11:03

The Convener: The petitioner, Professor Walter Dean, contacted me as an MSP for the north-east and as the MSP for Aberdeen North—members will note that he says that he has written to the MSPs for the north-east. However, he lives in the area covered by Highlands and Islands MSPs, so if he has had negative responses from north-east MSPs, that might be the reason why.

The petition is in three parts, but members will note that only the first part falls within the committee's remit. We are asked to consider amending the Scottish Parliamentary Standards Commissioner Act 2002 to allow an appeals process for complainants whose complaints the commissioner has rejected. The act sets out criteria against which complaints must be judged and any decision is made against those criteria and the code of conduct for MSPs.

The committee is reviewing the code of conduct, but do we think that the 2002 act also needs to be reviewed? Are we tackling some of the petitioner's concerns by reviewing the code? I am more than happy to hear what members have to say about that.

Bill Butler: I do not know what other members think, but I think that to consider amending the 2002 act at this stage is premature, to say the least. I really do not think that we should involve ourselves in that discussion, which might or might not take place much later, in future sessions.

Resources are a matter for the Scottish Parliamentary Corporate Body. We might want to refer the petition to the Finance Committee, which is considering the implications of overlaps among commissioners. Other than that, we should close the petition—or our consideration of it—at this stage.

Alex Fergusson: It is not uncommon for me to agree with Bill Butler and I do so again now. Is it in our remit or the Public Petitions Committee's remit to close the petition?

The Convener: It is in our remit to close it in relation to the matters that have been referred to us.

Alex Fergusson: If that is possible, I agree that we should do so.

I seek clarification. At the end of the petition, on page 3 of paper ST/S2/06/5/2, the petitioner gives an example. The third point that he makes is:

"Protocols ensure the MSP's actions inhibit other, Regional MSP from taking interest".

I have been assuming throughout that the MSP in question is the constituency MSP and that it should read, "Regional MSPs", rather than "Regional MSP". What protocol is he referring to? If such a protocol exists, I have had a complete misunderstanding of the role of all MSPs.

The Convener: It seems that Professor Dean is under a series of misapprehensions and that he simply does not understand how the process works. He states on page 4:

"Approaches have been made to my local MSP, seven N.E. Region MSP"—

it should be "MSPs", rather than "MSP"—but his address is in Forres, so he should be approaching Highlands and Islands MSPs.

You are right that there is nothing in any protocol that prevents a regional MSP from taking up a case. The protocols govern how they go about doing that and their conduct in relation to the constituency MSP, according to whether the constituent wishes to inform them of the matter.

It might be useful for us to point out to Professor Dean that he ought to be dealing with the regional MSPs for the Highlands and Islands and to let him have a copy of annex 5 to the code of conduct, which might help to clarify those points. Do members agree?

Members indicated agreement.

Linda Fabiani (Central Scotland) (SNP): At the previous meeting, we discussed the Reid principles and asked for the Presiding Officer's view on them. This is another example of why the time is now right for us to consider these things. There is confusion about what is a constituency case and what is a general issue for the purposes of parliamentary questions. There are variations in how particular constituency MSPs translate the Reid principles in relation to their contact with regional MSPs. It would be healthy for us to seek clarification of the Reid principles and to discuss them further.

The Convener: Are members content for us to advise Professor Dean that we do not consider this the appropriate time to review the 2002 act, as it is relatively new? Professor Dean referred to the MSPs for the wrong region, so we could advise him who the seven regional MSPs are for the Highlands and Islands. Shall we enclose a copy of annex 5 to the code of conduct, which explains the protocols? Shall we also advise him that we are currently reviewing the code of conduct, but that the other matters to which he refers are not within our remit, and that we have therefore passed on his reference to the resources that are available to the Scottish parliamentary standards commissioner to the Finance Committee, which is currently reviewing the role of commissioners?

We should also point out that the standards commissioner has chosen not to employ staff and not to have a separate office. That is a matter for the commissioner. He is independent, and he is entitled to make that choice. Resources have been made available by, or are potentially available from, the Parliament to address the matter. If there are no further points to make, we will now close the petition, as far as the Standards and Public Appointments Committee is concerned.

Members *indicated agreement.*

Code of Conduct

11:12

The Convener: We have two papers under agenda item 3, on different topics: cross-party groups and the rules governing them, as was rightly referred to earlier by Christine May; and the registration of interests of members' staff.

We are continuing to work our way through the code of conduct for MSPs, and we have before us a discussion paper from the clerks relating to cross-party groups. Members of the committee are all members of various cross-party groups, so I suppose that it could be said that we all have an interest in the subject. Do members have any comments to raise in relation to the issues contained in the paper, or any other issues that they wish the committee to consider as part of its review?

Christine May: I seek clarification on paragraph 3 on page 2 of annex A to the paper on cross-party groups, which says that

"the idea of a cross-party group system is not supported by a proportion of the public".

On what was that comment based? Do we know what that proportion is, or has there simply been some media speculation about whether cross-party groups are a good idea?

The Convener: We have received representations on the subject, although it would be fair to say that the number of representations has been fairly limited—in fact, we have had precisely one. [*Interruption.*] I have received one, but the clerk tells me that there have been phone calls to the clerks' office. I suspect that at least some of those calls will have been motivated by articles appearing in the press. I hope that that answers your question. I have no idea what proportion of the public have expressed that view.

Christine May: I suspect that, other than people who know or care about the fact that we have cross-party groups or how they operate, the proportion of the public who do not support the system is fairly limited. On that basis, I think that the system should continue. Cross-party groups are valuable sources of information and cover in detail topics on which legislation might be pending or recently introduced and other matters on which members wish to develop their policy thoughts. It follows that the rules surrounding the establishment of and support for cross-party groups and the publication of their activities should be as transparent as possible, so that the concerns of the members of the public who have been in touch with us about them can be allayed as far as possible.

11:15

The Convener: Perhaps we should go through annex A paragraph by paragraph, or at least heading by heading. Christine May's point is covered in paragraph 1. Do we agree in principle that the cross-party group system should continue to exist?

Members indicated agreement.

The Convener: In that case, do members have views on paragraphs 4 and 5?

Linda Fabiani: The decision taken by the committee in June 2003 and confirmed in January 2005 was sensible and we should incorporate it in the new rules.

Karen Whitefield: I agree with Linda Fabiani. The system that we put in place to recognise the diversity of the Parliament's membership appears to work relatively well. It reflects the need for cross-party groups to be truly cross party in nature, but does not put too much of a burden on any one party. We should formalise those arrangements and recognise that they work.

The Convener: How do members feel about the minimum threshold of five MSPs in a cross-party group?

Bill Butler: That is fair, given the many parties and independent members in the Parliament.

The Convener: Do members wish to consider whether the threshold of five MSPs is too low? I know that a number of groups sometimes have difficulty reaching a quorum with only two MSPs having to be present, so perhaps it is worth considering a higher threshold. Perhaps we should consult specifically on that point.

Alex Fergusson: I hear what you say; indeed, I am a member of one or two groups that often have difficulty reaching a quorum, but which have a large number of signed-up MSPs. One of those is the cross-party group on animal welfare, which is well attended and does a lot of good work, but on occasion we have difficulties with the quorum.

The question is not whether cross-party groups should exist, because of course they should; the problem is caused by the large number of interests, which is reflected in the number of groups, the comparatively small membership of the groups, and MSPs being able to deal with those interests within the compacted week. The problem is achieving the right balance.

The threshold of five members in a group is fair. After each election, we need the flexibility to take cognisance of the make-up of the Parliament, which could be different.

The Convener: I was not referring to the spread of members, which was the first point, but the total

number of members in a group. If the threshold is relatively low, the potential for being inquorate might be a problem.

Linda Fabiani: The possibility of being inquorate remains, regardless of the number of members who sign up to join a group—apart from the renewable energy group, whose membership fascinates me.

I suspect that the international development group has one of the largest MSP memberships. The main function of the group is a learning one. Every month, Des McNulty arranges a presentation from a particular organisation. To use that group as an example, we do not make decisions at the meetings, except for once in a blue moon, so we do not require a quorum of MSPs. I am sure that, quite often, groups may be inquorate because of people's other commitments.

Cross-party groups are largely about civic Scotland, to use a hackneyed phrase, and about individuals being able to come along, interact and put forward their point of view. We need to be quorate under the rules only if we are making a decision rather than discussing, learning and listening to what is going on.

The Convener: It has certainly been my experience cross-party groups make few decisions. They are largely about the exchange of information. However, as we review the code of conduct, we might wish to consider some mechanisms for broadening the discussion beyond the committee, which is a rather select group. Do committee members think that we ought to engage other people in discussing this point? I have no difficulty with the decision that was reached on 25 January 2005 forming part of the code of conduct. We should always have a mechanism for reviewing the threshold in light of any change at an election. Do we need to broaden the discussion on the matter, or is there not enough evidence that the subject is sufficiently controversial for us to go beyond the committee? We have had two consultations on cross-party groups.

Christine May: From my experience in the groups of which I am a member and from general observation, I would say that MSPs are members of a number of groups and struggle to get to the same one each month, partly because meetings clash. Non-attendance does not imply any lack of interest and there is not a huge groundswell of muttering among members for changes to be made. There is no indication that, if we were to expand the number of MSPs needed for a quorum, the task of achieving a quorum would be any easier. I suggest that we write that decision into the code of conduct and that we leave the situation as it is at the moment. When it is next reviewed, we can determine whether any further action is required.

The Convener: Is that the committee's general wish?

Alex Fergusson: Yes, I do not argue with that at all. I am happy with the suggestion.

Members indicated agreement.

The Convener: Paragraphs 6 and 7 of the paper ask whether cross-party groups should continue to have non-MSP members and whether they should continue to be able to vote. Do committee members wish to make any comment on that?

Bill Butler: CPGs should continue to have non-MSP members. As far as I can recall, there are very few times when matters go to a vote in a cross-party group. If anything goes to a vote, it should be the MSP members who vote but, to be frank, I would be surprised if there were one or two votes a year—if that—in all the cross-party groups. That is my tuppenceworth, convener.

Linda Fabiani: I disagree with only one part of what Bill Butler said—everybody looks shocked that I have disagreed with such a sage. We should continue to have non-MSP members, but we should also continue to allow them to vote because one of the grand things about cross-party groups is that they are not parliamentary committees, but a coming together of like minds on many issues. It is really healthy that everyone who is a member of a cross-party group has a vote, as long as they are a confirmed member.

To return to the difficulty of getting a quorum, it hardly seems democratic that, if there are 30 people in the room who have attended all the meetings and know what is going on but only two of them are MSPs, only those two are allowed to vote, and the MSP who happens to be in the chair has the casting vote.

Alex Fergusson: I do not entirely disagree with that. One of the great strengths of the cross-party groups in the Scottish Parliament in comparison with their Westminster counterparts—the all-party groups—is the fact there is a great deal of outside involvement of stakeholders and outside interests.

The Convener: The concern has been raised with me that there are too many outside members of such groups, who end up having too much influence. That is the nub of a debate that we may need to have.

Alex Fergusson: I robustly defend that as a strength of the system; however, I accept that that is an entirely legitimate debate to have. Given our previous conversation about how difficult it often is for a group to have more than just the minimum number of MSPs, it would be the death knell for a lot of cross-party groups if we excluded outside interests. Therefore, we are almost forced by our previous discussion to ensure that we include them.

When it comes to voting, I am open. I am having trouble recalling any votes being taken in any of the cross-party groups that I am on. There tends to be a prolonged discussion followed by a "Well, are we all agreed?" type of decision—if it comes to making a decision. I am open on that issue. I have no problem with registered members of a cross-party group being entitled to vote at a meeting.

Christine May: This has suddenly turned into an extremely interesting discussion. I hummed and hawed when I read this paper, but the discussion has clarified my thinking. There is a difference between achieving consensus in a group—having a debate and all agreeing on a course of action—and voting on something that is contentious. I do not think that it is reasonable in such situations to commit MSPs publicly to follow a course of action that they are not thoroughly comfortable with or signed up to.

Let us imagine a situation in which a contentious and contended motion is put, on which MSPs have one view and other members of the group have another. As part of the decision-making process of the group, the MSPs could find themselves committed to a course of action that was against their principles. I am probably taking the idea to its extreme—I have never been on such a cross-party group—but the danger of putting into a code an entitlement for people other than MSPs to vote ultimately raises that issue. I am not sure that we would want to be in that position.

The Convener: The code of conduct is totally silent—and probably rightly so—on the issue of committing members of the group to following a course of action. If it were spelt out that cross-party groups do not have the power to commit their MSP members to any action as a result of a vote in the group, that may address the point. I understand that part of the democratic tradition is that, if someone belongs to a group, they accept the democratic will of the group; however, I do not think that what we are talking about is quite the same thing.

MSPs owe a duty to their electorate, and we all belong to party groups that have whipping arrangements. Those arrangements do not have any status other than a self-denying ordinance, although we may find it difficult to be reselected if we choose not to follow the party whip. I do not think that any cross-party group would have such a right. Moving beyond your argument about binding MSPs to the result of a vote, what sanctions could a cross-party group take against its members? The answer to that is none, although, as cross-party groups are parliamentary in character, those who were disruptive could be asked to leave.

I see that Linda Fabiani wants to say something. I will come back to her, but Karen Whitefield has

been waiting patiently to put in her tuppenceworth on the issue and I abused my position as the convener.

11:30

Karen Whitefield: That is all right, convener.

I agree with committee members that we should have non-MSP members of cross-party groups. They make a valuable contribution and provide MSPs with expertise and knowledge that we want to acquire. That is often why members belong to cross-party groups. They are about developing knowledge and expertise in a subject in which members are interested and which they want to pursue. On the issue of voting, I do not think that cross-party groups should ever vote. For me, their purpose is to allow us to gather and exchange information and to pursue issues consensually, working in partnership with organisations and individuals who are experts in the field. As far as I am aware, in my time in the Parliament, none of the cross-party groups has ever taken a vote. It would be a sad day if we ever started that way of doing business, because that would go against the purpose of the cross-party groups and the contribution that they make to MSPs and the Parliament.

Ultimately, the role of MSPs is different from that of non-MSP members of cross-party groups. Should a cross-party group ever have to take a vote, I am not sure that it would be appropriate for non-MSPs to have a right to vote, because they are not members of the Parliament. I can envisage a situation in which, particularly with groups that have a considerable non-MSP membership, the non-MSPs could easily outweigh the MSPs, which might not be appropriate. That comes back to my point that cross-party groups should not conduct their business through votes but should work consensually. That is my general understanding of how they work, pretty effectively, at present.

The Convener: That is certainly my experience, too. I do not recall a vote taking place in a cross-party group in the seven years of the Parliament. However, that is not to say that that will not happen.

I welcome Donald Gorrie to the committee and advise him that we are discussing item 3 on the agenda. We are considering paragraphs 6 and 7 of paper ST/S2/06/5/3. Do members agree that cross-party groups are entitled to have non-MSP members?

Members indicated agreement.

The Convener: Do members also agree that non-MSP members should be entitled to vote?

Members: No.

The Convener: I see that Linda Fabiani wants to speak. I will let her do so in a moment.

Perhaps we need to give further consideration to the issue of how any votes in a cross-party group might be conducted. I ask members to submit their views on that to the clerks.

Linda Fabiani: I would really like to say something, convener.

The Convener: I know that you would. I am just trying to reach a consensus on the issue so that we can move on. As members are not content with the proposal, we will have a little more discussion. I invite Linda Fabiani to speak.

Linda Fabiani: I think that we are tying ourselves up in knots. What Karen Whitefield said is right—cross-party groups have a vote once in a blue moon. For example, there might be a vote for office-bearers at the AGM. On such an occasion, it would be silly to allow only the two MSPs who made the group quorate to vote. The present position is outlined in paragraph 7 of annex A, which states:

“A non-parliamentarian is usually eligible to vote at cross-party group meetings if the person is a registered member of the group”.

Why can we not just keep the status quo? I do not recall hearing about any cross-party group being hijacked or forcing any issues. It seems to me that the present arrangements, which are not prescriptive about voting, seem to work rather well. Why should we try to be prescriptive and tinker with something that does not appear to be broken?

The Convener: I remind members that we have already agreed that there will be three parts to the code of conduct, only one of which will be rules. Another part will be guidance. If we spell out in the guidance that if a cross-party group took a vote, that would not bind its MSP members, will that address the concerns that some members have?

Bill Butler: Perhaps we could add to the guidance that cross-party groups should seek to operate on the basis of consensus at all times, other than at the AGM, when positions can be voted on.

The Convener: I am content with that.

Alex Fergusson: I agree with Bill Butler. We are in danger of making mountains out of molehills and of creating problems that do not exist. Almost everyone who has spoken so far has agreed that there is not a problem at the moment, so let us not create one. A sensibly written sentence in the guidance is all that is needed. Bill Butler's suggestion is sensible.

The Convener: We can revisit the issue when we have redrafted the guidance. Are members content with that?

Members indicated agreement.

The Convener: In that case, we can move on to consider the nature and status of cross-party groups, which are dealt with in paragraphs 8 to 13 of annex A. Does anyone wish to have a stab at defining “Parliamentary in character”?

Christine May: No is the direct answer to your question. The phrase “Parliamentary in character” conjures up connotations of showing respect for the views of others, being polite and not having rammies in meetings. If we seek to define what it means any further, I worry that we run the risk of tying ourselves in the sort of knots that we have been trying to avoid tying ourselves in. We should leave the definition at that because the phrase is sufficiently wide to be able to be used as a sanction against most bad behaviour and—in my view and, I suspect, in that of others—sufficiently detailed to describe how meetings should be conducted.

Bill Butler: I agree with that, but I think that it would be useful to say in the guidance what “Parliamentary in character” does not mean. It does not mean that a CPG is a parliamentary committee or that it should be seen to operate as such. We should add what Christine May has suggested to the guidance and leave things at that. That would be sufficient.

Linda Fabiani: I agree. The suggestion in paragraph 11 that the committee should consider “including such information as guidance within the Code”

is eminently sensible. Paragraph 12 makes the important point that the code of conduct should

“Clearly state that cross-party groups are not ‘core’ business of the Parliament”.

That relates to the discussion that we had on the preceding paragraphs. The point about the use of the parliamentary logo is important, too.

What Christine May said about “Parliamentary in character” was absolutely right, but the worry is that even the use of the word “Parliamentary” will make people think that cross-party groups have a status in the parliamentary system. If we use that terminology, we must ensure that we state what it does not mean, as Bill Butler said. That is the sensible way to proceed.

Donald Gorrie (Central Scotland) (LD): My appearance at the meeting is due to my brilliant chairmanship of the Procedures Committee—

The Convener: Do not drag this meeting out just because you dealt quickly with the other one.

Donald Gorrie: A member of the Procedures Committee who normally talks quite a lot was not present at today’s meeting.

I have a slight problem in that I am a member of far too many cross-party groups. I try to attend as

many meetings as I can, but I do not attend as many as I should. One of the groups of which I am a member has had and continues to have serious problems, which should not be aired at this meeting. Meetings should be fairly informal and if “Parliamentary in character” means that people must be polite to one another, it is a helpful requirement, because some people cause a lot of trouble at the group to which I alluded.

The Convener: Would you regard a cross-party group as parliamentary in character if its membership comprised 10 times as many non-parliamentarians as parliamentarians? My question reflects a representation I have had on the matter and I want to know what members think, but it is not a matter that is being raised elsewhere. We should at least put on the record our thoughts about the proportions of MSPs and non-MSPs.

Donald Gorrie: Cross-party groups are a useful part of parliamentary activity and form a bridge between members and organisations that are interested in a subject. For example, there is an active group on older people, age and aging and another active group on children and young people—there is probably one on middle-aged people, but I do not have to belong to it. I often attend meetings of the cross-party group on sports. MSPs are heavily outnumbered, but it is useful for members to hear the views of pressure groups and individuals who are involved in work on the subject. I accept that many more non-MSPs than MSPs can be members of a group, but I do not know whether that means that the group is not parliamentary in character—perhaps that is not the right phrase. I certainly would not want to shut down groups because MSPs were outnumbered at a meeting by a dozen to two. Both sides can benefit from the discussion.

Bill Butler: The phrase “Parliamentary in character” should be taken to refer to the manner in which the group operates and the behaviour that is expected. That is a useful approach and we should not get bogged down in the ratio of MSPs to non-MSPs.

The Convener: Are members content with Bill Butler’s definition?

Members indicated agreement.

The Convener: Bill Butler’s approach addresses the point that was raised externally. Some people are concerned about our activities and will examine every nuance and every word of the code. People might regard a cross-party group that had very few members who were parliamentarians as not parliamentary in character.

Does Christine May want to comment?

11:45

Christine May: No. I have nothing further to add.

The Convener: Good. In that case we have dealt with the point in paragraph 10. We have also agreed that we will include information in the guidance on the code.

I ask members to consider one other point. It is important that we spell out in the guidance that cross-party groups are not parliamentary committees and that, as paragraph 12 indicates, they do not have powers to summon ministers to attend meetings. On a more positive note, ministers are willing to attend, which is helpful. However, when no formal cross-party group has been set up but there is a working party or a short-term group, some ministers have used the fact that it is not a cross-party group as an excuse not to attend.

Linda Fabiani: Really?

The Convener: Yes.

Linda Fabiani: Name them.

The Convener: This is not the place to do so. Although cross-party groups do not have the power to summon anybody to attend, there is an onus on ministers to engage with a variety of organisations. The fact that a body is not a cross-party group should not be a reason for them not to attend. They may have legitimate reasons for not attending, but the fact that a body is not a cross-party group is not a reason for them not to attend.

Alex Fergusson: There is a converse to that argument. I am a member of a group that Christine May chairs, convenes or whatever the appropriate expression is. A reason why it was not formed into a cross-party group was so that a minister who has a particular interest in the subject could attend the meetings.

Linda Fabiani: As a member?

Alex Fergusson: Yes. We should maintain as much flexibility as possible, so that people with a genuine interest in a matter can have their say.

The Convener: I do not know whether we might wish to refer the matter to the Minister for Parliamentary Business with a view to formalising the situation, or whether we should leave it as it is.

Alex Fergusson: Leave it—it is working, so we should not try to fix it.

Linda Fabiani: I do not think that it could be formalised.

The Convener: I accept that that is the view of the committee.

Alex Fergusson: There is a problem with the public's perception of cross-party groups and the

weight that they carry as parliamentary bodies. There is a misconception that they are a core part of parliamentary business. We must put that right.

The Convener: It is agreed that it will be spelled out in the guidance that they are not a core part of parliamentary business. It will also be spelled out that a cross-party group is not entitled to use the parliamentary logo.

Alex Fergusson: I seek clarification, because I suspect that I am guilty of breaking the rule. I am the secretary of a cross-party group on ME. I freely admit to using my own parliamentary paper when I write to ministers and others on matters relating to the group. From what has been said, I now presume that that is wrong.

The Convener: It is wrong.

Alex Fergusson: I will not do it again.

The Convener: Good.

Alex Fergusson: I suspect that such a practice is not uncommon when MSPs or their staff provide the secretariat for a group.

The Convener: It has been pointed out to me that rule 12 in section 8.3 of the code of conduct spells out that limited use of parliamentary facilities is allowed. If you are writing a letter informing people that the cross-party group is on the go, there is nothing to prevent you from doing that as an MSP. If you want detailed guidance, please approach the clerks.

Alex Fergusson: I mention the issue not to get personal guidance but because I suspect that such a practice is not uncommon among other groups for which MSPs provide the secretariat. However, that might be something that we want to tighten up or look at.

Bill Butler: That is sensible, but we should stick to our decision and make it clear that it is wrong for groups—not members—to use the logo formally on their literature. That makes a distinction.

Alex Fergusson: That is the distinction.

The Convener: In that case, can we move on to paragraphs 14 and 15, which discuss the number of cross-party groups? Do members wish to limit the number?

Linda Fabiani: I do not think that we should do that because it would disfranchise people.

Karen Whitefield: I do not think that we should limit the number. The responsibility for dealing with the issue lies with individual members. Cross-party groups can be set up only if MSPs join them. Every member is probably guilty of signing up for a new cross-party group on something that interests them and then never attending its meetings.

However, I do not think that we should say that MSPs are not allowed to do that. It is a question of self-policing. We should not sign up to cross-party groups that we are not going to attend. Every member has to take the responsibility seriously. If we did, that would deal with the perception that we have too many cross-party groups. If members sign up to one or two groups and attend their meetings, the system will work effectively. That is the best approach.

We should not set a maximum number. I cannot see how that would work, because I am sure that there are subjects that we have not thought of but which would be worthy of a cross-party group either now or in the future. It would be wrong to say, "We already have 150 groups and we do not want any more."

Bill Butler: I tend to agree with that. We should not be prescriptive, but it is sensible to offer guidance. Earlier this morning we dealt with a revision of a group's name and remit and Mr Fergusson was right to praise Robin Harper for seeking those changes. In the guidance, we should say that it is sensible to deal with overlap or possible duplication. I say no to prescription but yes to helpful guidance.

Donald Gorrie: I do not dissent from the points that have been made. What Karen Whitefield said is correct in theory, but in practice members are often put under pressure to join a cross-party group if it needs a member from their party in order to exist. My standard joke when I speak to women's guilds is that I have always been pleased that I was not born a woman because I have great difficulty in saying no. On that basis, being a kind-hearted sort of guy, I often sign up to cross-party groups but do not go to the meetings. That is bad in a way, but at least my joining the group enabled it to exist.

We should examine the requirement for cross-party groups to have a certain number of members from different parties. Is it better for a group to exist even though members are not terribly good at attending it, or is it better for it not to exist at all?

The Convener: That is precisely the dilemma that has been presented to us.

Alex Fergusson: There is another dilemma. When a member signs up to a cross-party group, usually at the beginning of a session, they might have every intention of attending it, but they might find that it meets at the same time as another group of which they are convener or an office-bearer. There is a huge amount of duplication, as we are all aware.

The Convener: Members are not able to attend meetings for a variety of reasons. However, we are being asked to decide whether the number of cross-party groups should be limited. You seem

unequivocally to agree that there should be no such limit but feel that our guidance should suggest that mechanisms be found to accommodate new ideas in existing cross-party groups. Are members agreed?

Members indicated agreement.

The Convener: Do members have any comments on paragraph 16 to 28 of the paper?

Bill Butler: Paragraphs 17 to 19 seek the committee's views on whether the code of conduct should incorporate a requirement for cross-party groups to hold an annual general meeting with all the associated paraphernalia. Such a move would improve the running of all CPGs.

The Convener: I assume from your earlier comments that you agree with the points in paragraph 16.

Bill Butler: Yes.

The Convener: Do members agree?

Members indicated agreement.

Linda Fabiani: On paragraph 22, I agree that we follow the clerks' advice that

"sub-groups should still operate within the rules set out in section 8".

However, although I like the "additional proviso" that sub-group decisions should be ratified at the next group meeting, I do not like the idea of putting whole new paragraphs about sub-groups into the code itself.

The Convener: Are members agreed?

Members indicated agreement.

The Convener: Are members content with paragraphs 20 and 21, on formalising links to home pages?

Members indicated agreement.

The Convener: Do members have any further comments on the rest of the paragraphs in this section?

Donald Gorrie: I might be revealing my ignorance, but do sub-groups exist or are they merely a notion in someone's mind?

Christine May: Yes, they exist.

Linda Fabiani: I believe that the cross-party group on construction has had a sub-group for some time.

The Convener: In light of our attempts to encourage consolidation of cross-party groups, it might help if members of a group with an interest in certain aspects formed a sub-group. That might get rid of the need for the cross-party group itself to meet so often.

Do members have any views on paragraph 24, which relates to the election of office-bearers? Are members content with the proposal for electronic elections?

Christine May: I confess that I do not have any strong views on this matter. Perhaps we should just suck it and see.

Bill Butler: Perhaps we should leave it to the CPGs to decide which form of election suits them.

Linda Fabiani: But ensure that either option is open to them.

The Convener: The paper does not seek to make any form of election mandatory. It simply seeks to acknowledge and formalise current practice in the code of conduct. Are members content with that?

Members indicated agreement.

The Convener: Do members have any views on paragraphs 25 to 28, on banking arrangements for groups that have finances?

Linda Fabiani: I agree that there should be guidance on this matter.

Christine May: The bullet points in paragraph 26 seem eminently sensible.

The Convener: So members are happy with paragraphs 25 to 28.

Members indicated agreement.

12:00

The Convener: In that case, we have concluded consideration of the first part of item 3.

I now seek members' views on annex 6 of the code of conduct, which relates to the registration of the interests of members' staff. This register is based on requirements imposed on members under the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999. In its review of that order, the committee agreed to return to the issue of the register of the interests of members' staff.

The fundamental question, I suppose, is whether the register is required.

Bill Butler: No.

Alex Fergusson: No.

Linda Fabiani: No.

The Convener: I suppose that the matter is relevant given that at each stage of the Interests of Members of the Scottish Parliament Bill questions were raised about the effect of putting a public spotlight on people who volunteer for public election. Of course, such scrutiny is appropriate. However, Parliament has already decided that the

interests of spouses, civil partners and co-habitants should not be registrable.

I have heard three members say no. Do members feel that we should recommend that the register be disposed of?

Bill Butler: Yes. It is unfair to place a requirement on staff that does not apply to spouses, partners and so on.

Alex Fergusson: I also point out that there is no such requirement on parliamentary staff, who can sometimes be as influential as our own staff. By removing this requirement, we create a level playing field.

The Convener: The committee's view is fairly clear. However, we cannot implement that decision here and now; such a move requires the Parliament's agreement, and it will form part of our recommendations for revising the code of conduct. Are members content with that?

Members indicated agreement.

The Convener: That brings the formal part of our meeting to an end.

Meeting closed at 12:02.

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