

STANDARDS COMMITTEE

Tuesday 22 June 1999
(*Afternoon*)

Meeting 1

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THE OLDEST MEMBER OF THE COMMITTEE :

*Lord James Douglas-Hamilton (Lothians) (Con)

COMMITTEE MEMBERS :

*Ms Patricia Ferguson (Glasgow Maryhill) (Lab)

*Karen Gillon (Clydesdale) (Lab)

*Mr Adam Ingram (South of Scotland) (SNP)

*Des McNulty (Clydebank and Milngavie) (Lab)

*Tricia Marwick (Mid Scotland and Fife) (SNP)

*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*attended

COMMITTEE CLERK :

Vanessa Glynn

ASSISTANT CLERK :

Alastair Goudie

Scottish Parliament

Standards Committee

Tuesday 22 June 1999

(Afternoon)

[THE OLDEST MEMBER OF THE COMMITTEE *opened the meeting at 15:30*]

Lord James Douglas-Hamilton (Oldest Member of the Committee): Colleagues, I welcome you warmly to the first meeting of the Standards Committee. I have been informed that I am the oldest member and so have to take the chair for all of maybe one minute. I ask colleagues to confirm that they have their briefing pack with them for today's agenda. It seems that they do. It will be my duty to preside over the first two items of business: the declaration of members' interests and the committee's choice of convener. I will then pass the chair to the convener.

Interests

Lord James Douglas-Hamilton: As far as declaration of interests is concerned, I ask colleagues to recall that where a member has lodged a statement for "The Register of Members' Interests" in respect of an interest that would prejudice or appear to prejudice that member's ability to participate, in a disinterested manner, in proceedings of the Parliament relating to any particular matter or subject, the member shall—before taking part in those proceedings—make an oral statement in those proceedings declaring the nature of that registerable interest.

It is my duty to ask each member in turn whether they wish to make a declaration of registered interests relevant to this committee's remit as it is understood at this meeting. I have to say that this question is more relevant to the subject committees than to ours, but I will certainly put the question to each member in turn.

Ms Patricia Ferguson (Glasgow Maryhill) (Lab): I have registered nothing that would present a conflict of interest. However, I noted in the paperwork with which we were supplied that we might have to consider the area of general conduct and conduct in the chamber. It is worth mentioning at this stage that, as I am a Deputy Presiding Officer, I would be very careful about how that issue was dealt with.

Karen Gillon (Clydesdale) (Lab): Nothing in my register would prejudice me in this committee.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I have nothing to declare.

Lord James Douglas-Hamilton: I am not aware of having anything to declare myself.

Tricia Marwick (Mid Scotland and Fife) (SNP): I have nothing to declare that would prejudice my involvement in this committee.

Mr Adam Ingram (South of Scotland) (SNP): I have nothing to declare either.

Lord James Douglas-Hamilton: To the best of my knowledge, I think that everyone has put in their return to "The Register of Members' Interests".

Convener

Lord James Douglas-Hamilton: We shall now proceed to the choice of convener. The Parliament, on a motion of the Parliamentary Bureau, has decided that the party whose members are eligible to be convener is the Liberal Democrat party. I invite Mr Mike Rumbles to confirm that he is willing to allow his name to go forward.

Mr Rumbles: I confirm that.

Lord James Douglas-Hamilton: The normal—and easiest—procedure is to agree by way of acclamation. If all members are content, I am happy indeed to hand over the chair to Mr Mike Rumbles.

Mr Mike Rumbles was elected convener by acclamation.

The Convener (Mr Mike Rumbles): I would first like to thank Lord James for chairing the first part of the first meeting of the Standards Committee.

Remit

The Convener: Before we move on to the third item on the agenda, which is the committee's remit and topics for further briefing, I want to ensure that everyone is aware of what the supplementary report of the code of conduct working group to the consultative steering group says. I have a copy of the document here, but I am not sure that everyone else has seen a copy of it. I am sure that everyone will receive a copy before the next meeting. I want to read out three sentences, because I think that what it says is important. The executive summary says:

"The Scottish electorate will have high expectations of their MSPs and the way in which they should behave in Parliament and in their relationships with their constituents. MSPs must meet those expectations by ensuring that their conduct is above reproach and worthy of the trust of the electorate. We recommend that the code of conduct should establish the minimum standard of behaviour that the Scottish electorate would expect of their representatives and set a framework for the behaviour of MSPs."

Members will know from the briefing notes that the remit of the Standards Committee, which we are now considering, concerns members' conduct and the code of conduct mentioned in the standing orders. I think that it would be helpful if members considered how they wish to handle future business in relation to the work set out in that remit.

The briefing note suggests topics for consideration in the future. We need to move ahead quickly on a number of items, specifically the code of conduct. Would members like to have another meeting next week so that we can consider the work programme and to discuss how the committee will operate at that meeting rather than this one?

Karen Gillon: I would prefer a meeting next week rather than the first week after the recess.

The Convener: What about Wednesday?

Karen Gillon: Preferably morning.

The Convener: Wednesday afternoon?

Tricia Marwick: Is not Parliament meeting on Wednesday afternoon?

The Convener: Not next week.

Des McNulty (Clydebank and Milngavie) (Lab): I suggest that we see how far we get today and organise another meeting on that basis.

I apologise for being late.

The Convener: As you were slightly late, you missed Lord James asking if any of us had any interest to declare. Do you have any relevant interests to declare?

Des McNulty: I do not have anything to declare as an interest, although I would like to flag up one issue. There is the vague possibility of a conflict between my responsibilities in the Scottish Parliamentary Corporate Body and in the Standards Committee. The corporate body may have to make a recommendation to the Standards Committee and that could cause a difficulty. I am seeking some clarification on that, but I would never want to be in the roles of prosecutor and judge. We may need to consider that issue.

The Convener: Members might wish to make general comments on topics for future consideration. We want to reflect any comments about that in our draft work programme, which the clerk will prepare in discussion with me fairly soon. If we have a meeting next week, the programme will be prepared before that meeting. I am not prejudging whether we will have a meeting next week; we will see how things go today, as has been suggested.

Do we want, for example, any particular organisation to conduct a briefing for us? I think that the intention was that we might want an outside body to brief us on how it works, or the Scottish Parliament information centre might produce some research information to assist us, which was one of the purposes of having a meeting next week. I will throw the issue open.

Des McNulty: It might be useful for members of the committee to have a general briefing on the Nolan rules and perhaps the associated Cadbury and Greenbury procedures. They do not apply directly to us, but I think that a straightforward briefing on the Nolan committee and its various modifications would be helpful, as it would set out the general principles.

It would be helpful to identify whether there are any—if you like—issues of privilege that are not within the committee's remit. We should consider what is in our remit and what is not. The basis for this committee is the Standards and Privileges Committee at Westminster. This committee is called the Standards Committee and the implication is that there are no issues of privilege.

We might want to contemplate a number of situations. For example, if a member speaking in the chamber raises a constituency issue in a way that might be considered libellous in a different context, how does that member stand vis-à-vis the Westminster Parliament.

We would at least want to know how to advise members as to what they could and could not do in such circumstances, taking into account any issues of privilege separating our situation in the Scottish Parliament from that of MPs at Westminster.

Is the Standards Committee purely concerned

with standards in the context of elected members of the Scottish Parliament, or does it have any wider view of standards in public life—asking the Nolan committee question—in general? My interpretation is that the committee's work is purely to do with the Scottish Parliament: we should satisfy ourselves on that point. That, too, could be the subject of a briefing.

The Convener: It is for the bureau to determine the remit of the committees. My interpretation is that the Standards Committee examines the behaviour and conduct of MSPs in the Scottish Parliament.

In setting up a code of conduct, we have a very big job to undertake. It covers a huge area. We need to give the clerks a steer on the draft work programme.

We were discussing the possibility of having another meeting next week, but I have just been handed the draft work programme. Reading through it, I see that we could consider the manner and timing of the publication of the register of interests. I will deal with that now, as the matter came up a few minutes ago.

According to the Scotland Act 1998, we are required to ensure that "The Register of Members' Interests" is published. The Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 states that the register of interests of members of the Scottish Parliament

"shall be printed and published by the Clerk at such intervals and in such manner as the Parliament may determine."

To allow early public availability of the register, the Parliamentary Bureau has authorised that the register be printed in a loose-leaf folder to be kept in the office of the clerk of the Parliament and to be published on the Scottish Parliament website. It may be printed and published in documentary form at a later date.

We should hold a discussion on the general principles of a code of conduct for members and of a guide to the rules relating to the code of conduct. If the committee wishes, we could do that now, discussing matters which should be covered and the general approach to take.

Ms Ferguson: I would find it very helpful to have a briefing from the information centre before we get involved in such a discussion. It is always helpful to have as much information as possible to inform our discussion and, if need be, to influence it.

The Convener: Shall we go back to where we were before? I suggest meeting next week.

Ms Ferguson: That would be helpful.

Lord James Douglas-Hamilton (Lothians)

(Con): I support Ms Ferguson's call for a meeting next week. It would be very useful to get a picture of how these matters are dealt with in other democratic Parliaments.

Mr Ingram: The Scottish Office has done a fair bit of work of late on a new ethical framework for local government. I wonder whether there is any scope for the people involved in producing that to help us out.

15:45

The Convener: That is a very good idea. We could link up the two processes.

Can we agree a time for the briefing on Wednesday afternoon?

Karen Gillon: The Scottish Youth Parliament is meeting next Wednesday afternoon and a number of members have indicated that they will attend. I advise that we avoid clashing with that meeting, which is at 2 o'clock.

The Convener: I do not want to be prescriptive. When do you suggest?

Karen Gillon: Wednesday morning, if possible.

Ms Ferguson: The earlier the better.

The Convener: Nine o'clock on Wednesday morning? That is agreed.

Des McNulty: I must absent myself as I have an appointment in my diary for that time.

The Convener: Does the committee want to delegate authority to me to agree a programme of speakers and a briefing programme, taking on board the suggestions that have been made? We can put that together for next Wednesday.

Karen Gillon: That sounds eminently sensible.

Des McNulty: Can I be supplied with some printed information, as I know that I will not be able to attend next Wednesday?

The Convener: Yes.

Des McNulty: Thank you.

The Convener: As a matter of principle, we need to decide whether our meetings should be in public or in private. I have been informed that meetings of the Standards and Privileges Committee at Westminster are always held in private. What do members think?

Karen Gillon: In general, I hope that we will be able to meet in public. Obviously, if we are discussing individual members or matters of specific interest, we should meet in private—that is for the committee to decide—but if this is to be an open and accessible Parliament, we should meet in public and have nothing to hide.

Tricia Marwick: I associate myself with Karen's remarks. The whole idea of the Scottish Parliament is to be open and transparent. If one of the first acts of the Standards Committee was an announcement that it intends to meet in private, that would send completely the wrong message to the people of Scotland, who have such great expectations of this Parliament. I take Karen's point that there might be occasions when we will want to meet in private, but that does not apply to general business such as drawing up codes of conduct or our work programme. Meeting in private should be a rare event rather than the norm.

The Convener: Are there any other comments?

Des McNulty: Presumably there is no question of the matters that are set out as part of our remit in 1b of the briefing note not being dealt with in public. The matters that are detailed in 1a, however, relate to individual members. If there is a case to be heard and a member is under scrutiny—in such instances we would presumably be acting in response to a recommendation from somebody else—it is appropriate that meetings should be held in private. A report would be made public once we had completed our deliberations.

Tricia Marwick: It would be wrong at this stage to suggest matters that we might meet in private to discuss; we can consider such issues at a later stage. We should not discuss at our first meeting the specific circumstances in which we might meet in private. We should take the view that the Standards Committee will meet in public and be open to the public and transparent, but that there might be occasions when we want to meet in private and that those should be approached issue by issue.

I would not like us to say that any meeting at which a member is called before us will be private. We would need to consider carefully the circumstances at the time and decide what was in the public interest, as well as whether it was in the interests of Parliament to have a meeting in private.

Ms Ferguson: I agree completely with the sentiments expressed by Tricia and Karen. My one concern is about the need to ensure that we are consistent in our decisions about when to meet in private—the reasons for doing so must always be the same. For that reason, I believe that this is an area where we have to do a little more work before we can come up with a hard and fast rule.

Privilege was mentioned. I am conscious of the fact that, as far as I understand it, there is no privilege for individual members—only for the records of proceedings of the Parliament. We must take that into account when we consider the

conduct of an individual member. We may want to consider that area further and it would be helpful if the clerks could give us some ideas.

Lord James Douglas-Hamilton: In principle, I believe that the committee should meet in public. However, if unsubstantiated allegations are made against an individual it would be a mistake to give them credence by making them public. In such circumstances, there would be a case for privacy,

The Convener: I will sum up the views that have been expressed. At Westminster, meetings of the Standards and Privileges Committee are held in private. I was about to say what I thought about that, but decided that, as convener, I should wait for everyone to express their views. I am glad that we are all speaking as one on this issue. The minutes should reflect the fact that, generally, we feel that there should be an assumption of openness in our affairs, although we do not want to make any specific recommendations yet. We will consider specific proposals at our next meeting.

As Lord James has just said, we will have to be careful about cases involving individual members, and will need to have a consistent approach to such matters. Are there any other comments?

Des McNulty: There are practical considerations if an issue involving an individual member comes before us. We would need to be extraordinarily careful about the information that was conveyed at a public meeting. As Lord James said, it is possible that allegations about a member, which turn out to be unfounded, can be made public because information about a member and what they are alleged to have done is made available before it has been heard and before we have had an opportunity to decide whether there is any substance to it.

We must balance the view—which is quite correct—that we should be open to public scrutiny with the need to protect members from spurious allegations. There must be particular procedures for that. We must also be careful about the information that goes out in agenda and minutes.

The Convener: I think that it would safe to say that our next meeting will be open to the public. Is everyone agreed?

Karen Gillon: We need the clerks to provide a draft procedure on how to deal with complaints against particular members. I assume that any individual complaints that come before the committee will be dealt with confidentially if they are in private and will be subject to press scrutiny if we decide to make them public. I take it for granted that members agree with that.

We need some procedure for dealing with complaints against members. We all have our own

ideas, but if the clerks could draft some suggestions, we could consider them.

The Convener: The point has been made that this is a very complex issue on which we can only—as we just have—make expressions of intent and do not have the time now or at the next meeting to make firm decisions about. That will be part of the work programme that will be drawn up.

Are there any other comments or points?

Lord James Douglas-Hamilton: I should perhaps mention that I am a member of the Parliamentary Bureau, which Patricia Ferguson is also a member of and which Tricia Marwick attends. I cannot, however, imagine that there could be any conflict of interest between the Parliamentary Bureau and this committee, but I mention the fact of my membership of it in passing.

The Convener: Just before we close I would like to say that we have made progress. We have another meeting with a briefing arranged for next Wednesday morning at 9 o'clock. The clerk has noted all the comments that have been made and will ensure that the briefing is staffed properly. We will take the issues forward from there. Thank you very much for attending.

Meeting closed at 15:56.

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