

STANDARDS COMMITTEE

Wednesday 15 September 1999
(*Morning*)

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STANDARDS COMMITTEE 4th Meeting

CONVENER :

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

COMMITTEE MEMBERS :

*Ms Patricia Ferguson (Glasgow Maryhill) (Lab)
*Karen Gillon (Clydesdale) (Lab)
*Lord James Douglas-Hamilton (Lothians) (Con)
*Mr Adam Ingram (South of Scotland) (SNP)
*Des McNulty (Clydebank and Milngavie) (Lab)
*Tricia Marwick (Mid Scotland and Fife) (SNP)

*attended

COMMITTEE CLERK:

Vanessa Glynn

ASSISTANT CLERK:

Alastair Goudie

Scottish Parliament

Standards Committee

Wednesday 15 September 1999

(Morning)

[THE CONVENER opened the meeting at 09:32]

The Convener (Mr Mike Rumbles): We will now press on—

Tricia Marwick (Mid Scotland and Fife) (SNP): Before we start, may I make a point about our agenda?

The Convener: Certainly.

Tricia Marwick: I note that item 3 on our agenda is a discussion on the draft code of conduct. I also note, convener, that you did an article about lobbying for *Holyrood* magazine. Given that, and given your statement at the Standards Committee meeting on 1 September, I think that it would be worthwhile if this committee were given the opportunity to debate today the chapter of the code on lobbying. We as a committee, rather than as individuals, would then have a view on it. Now that the matter is in the public domain, it seems to be running away—from this committee in particular. It is only right and proper that we deal with the chapter on lobbying at the earliest opportunity—today—and that the committee has an opportunity to express its view.

The Convener: At our previous meeting, I suggested that we should look again at the agenda. I think that it was my suggestion to bring the matter forward, but the committee decided to deal with everything in its allotted place—that was before you arrived, Tricia. The views expressed in *Holyrood* magazine are entirely my own. I made that clear.

Tricia Marwick: I accept that.

The Convener: I was not speaking on behalf of the committee. I am happy to discuss that point, but I am not sure that we can do so today. I can certainly put it on the agenda for next week. I know that one member is missing at the moment, and it would only be right and proper for us all to come prepared for such a debate. [Interruption.] I have just been informed by the clerk that it is a requirement of standing orders to publish the agenda for a meeting in advance.

Tricia Marwick: But surely it is appropriate, as is the case with every other committee that I have been on, to accept for the agenda something that the committee wishes to discuss.

The Convener: Do other members have any

views on that? [Interruption.] I have now been informed that notice of such a discussion has to be published in the business bulletin.

Des McNulty (Clydebank and Milngavie) (Lab): I think that Tricia's request is reasonable. Lobbying should be discussed. I was quite cross about the agenda for the previous meeting, which contained the item "Statement of Convener" but gave no indication of what the substance of that would be.

We cannot have it both ways. We either need a clear agenda, which says explicitly what the items are and what is to be discussed—that is good committee practice—or we allow more flexible contributions.

The Convener: I entirely agree. It was unfortunate that I wanted to raise the issue as an agenda item; it was decided that I should present it as a brief statement. The issue was opened for discussion, which had ended by the time Tricia arrived.

The advice that I have received is that such a discussion would have to be an item on the agenda. I am happy to take it at the next available meeting, if that is what members want.

Tricia Marwick: I suggest that we put it on the next agenda, but I would like members to agree that no member of the committee will discuss lobbying outwith the committee until we have had a chance to discuss it.

Des McNulty: It is perhaps unfortunate that some of the views aired publicly have appeared to close off some of the debate that needs to be had. We are all going through a learning process, but we should have a relatively early debate on the issue, which is important for the Parliament. If you are saying, convener, that we will have a debate at the next meeting with appropriate information that can be gathered in time, I would be prepared to accept that.

Lord James Douglas-Hamilton (Lothians) (Con): I would be grateful if, when this issue is debated fully, we could have evidence about the countries that have had registration of lobbyists—and those that have not—and about how that has worked. That would be useful because it looks as though we will have to come to a key decision on this matter.

The Convener: The clerk has advised me that we should, as Lord James suggested, have core witnesses to give us the benefit of their expertise about the registration—or lack of it—of lobbyists. It is important for us to deal with this issue properly and get it right. [Interruption.] It has been suggested to me that, to enable the core witnesses to have the proper evidence for us, it would be best to have the discussion at the first

meeting after the October recess—the next meeting but one.

Tricia Marwick: Frankly, I am not happy about that, convener. The matter is in the public domain—you put it there with your article in *Holyrood* magazine. It seems unfair that we do not have an earlier opportunity for at least an initial discussion. I accept that it is right and proper for us to take evidence before coming to a final conclusion, but I really think that the committee should have an earlier opportunity at least to discuss the issue. I am still pushing for a debate on lobbying to be on the agenda for the next meeting. We can become better informed in the future, but we need to have the initial debate.

Des McNulty: I will try to be helpful on this matter. Registration is not the only factor. A preliminary discussion about which issues we feel are appropriate to raise might be a useful starting point to this exercise. We could have that at the next meeting and then set a timetable for taking things forward.

The Convener: I think that that is an excellent suggestion.

I reiterate that the article in *Holyrood* magazine is one of several that I have been pressed on since we started up in May. The issue of lobbying has not entered the public domain because of the article in *Holyrood* magazine. I have been asked to respond to a number of media inquiries and have made it absolutely plain that I am speaking entirely in a personal capacity. I was asked for my views—that is what I gave. On each occasion, I said that the matter in question had not been discussed at the Standards Committee. It is my view that that did not close off any options. I also believe that it would be valuable to have the debate as suggested by Tricia and Des—that is the way forward.

Des McNulty: May I raise two other procedural points about the meeting before we proceed to the full agenda? First, I want the minutes of the previous meeting to be an agenda item to find out whether any issues about accuracy need to be raised.

Vanessa Glynn (Committee Clerk): That is not parliamentary practice. The minute is an informal document for members' information only and is not published. However, if a member has concerns about accuracy, he or she is most welcome to inform the clerks outside the meeting.

Des McNulty: If there is an issue about the accuracy of the minutes, will there be an opportunity to raise the point at the start of each meeting?

Vanessa Glynn: I am not sure that that can be put on the agenda.

The Convener: The proceedings are published in the *Official Report*, of course.

Vanessa Glynn: Yes, there are two accounts of a committee's proceedings: the *Official Report* and the copy of the minutes that goes to each committee member.

Des McNulty: Because of the quasi-legal nature of some of this committee's business, it is important for the minutes to be accurate. We need to establish a procedure so that the committee can resolve disputes where members disagree with the given account of a meeting. It might be better to deal with the matter before it becomes inflamed.

The Convener: May I take detailed advice on that point? I will get back to you.

Des McNulty: My second procedural point is that, after the previous meeting, information about a draft code of conduct was circulated to me and other committee members with a Friday deadline for comments. I received the draft code on Wednesday afternoon, which is when parliament meets. As Thursday is also a parliamentary meeting day and as Friday was taken up with constituency engagements, it was not possible to deal with that business. May we have a slightly more reasonable time scale for making responses in future?

The Convener: Yes.

Committee Drafts

The Convener: The first item on the agenda is the availability of committee drafts. After our previous meeting, representations were made to me that it was difficult for the press and the public to follow our discussions. I therefore thought it appropriate to make this the first item on the agenda. The committee has been asked to provide observers in the room—members of the press and the public—with drafts of the papers that are to be discussed, which will be retrieved at the close of the meeting. People who attend the meeting will therefore have a better insight into our discussions.

Tricia Marwick: Like you, I was concerned to find after the previous meeting that the press had sat through our line-by-line discussion of the code of conduct without any information of their own. It flies in the face of the Parliament's commitment to openness for observers not to be given documents. There is nothing secret about these documents. When we discussed putting the draft code into the public domain, we felt that the whole code should be published. I had understood that committee papers would be available so that people could see what we were discussing. It would be bad practice to keep such documents from the press.

Other committees are facing the same problem. Information is not available in the committee room to members of the press and, because they do not see what items are on the agenda, they do not know what is being discussed. The matter needs to be raised with the whole of clerking services, not just with the clerks on this committee.

I see no reason to retrieve the documents at the end of the meeting. It makes us look silly to allow the press access to papers, only to whip the documents out of their hands as they walk out the door.

09:45

The Convener: I suggested retrieving the documents only because the committee agreed on 1 September not to hand out half-baked drafts. At the previous meeting, we agreed a number of changes to the draft code—Des has said that he wanted some time to think about additions to the text. The danger is that the press and public might assume that the information was coming from the committee when it was not. That is why I am suggesting that the press and public be provided with papers, which would also enhance the openness of the meeting. However, it is up to the committee if it changes its mind and wants the papers back.

Tricia Marwick: I have gone back through the *Official Report* and have found that, in our first exchange about this issue, I asked whether the papers under discussion were available and whether people could access the briefing papers through the internet. When I was told that people had access to the papers listed on the agenda, I said that those papers were, in many ways, in the public domain. That was at the start of the meeting. It was not until I left the committee room that I found out that the papers were not in the public domain.

The Convener: I think that there is a confusion about the papers.

Vanessa Glynn: I am sorry if I misled you, Ms Marwick. Two sorts of papers go out with an agenda to committee members. The papers in the first set, which is available to the public, are listed on the agenda. The second set consists of private briefing papers, which are for members' eyes only. That is made clear in the letter that also goes out to members. In my reply to your question, I meant that only the papers that are listed on the agenda are publicly available; anything else is not. I am sorry if that was not clear.

Mr Adam Ingram (South of Scotland) (SNP): I tend to agree with Tricia. If the press sit through a whole meeting with the papers in front of them, it serves no great purpose to remove those papers at the end. It would be helpful if they could retain

the papers to check the accuracy of their reporting.

Ms Patricia Ferguson (Glasgow Maryhill) (Lab): We can all learn from experience. A close look at the proceedings of the previous meeting shows that what was agreed was unhelpful to the press and public, which is the last thing that we want to be. However, although I agree with Tricia, I think that we should clearly identify the status of the papers so that they are not reported as being what they are not. Any confusion after that will not be of our making.

The Convener: That is a good point. The clerk has made sure that the papers to be given to the press have "Draft" stamped at the top of them to make it clear that their contents have not been agreed by the committee.

Des McNulty: Can we also make it clear that some of our business, particularly on the code of conduct, is a working process and will not be dealt with in one meeting?

The Convener: Do members have any other thoughts? Are we happy to give out details of the committee's business to the press and public and not to retrieve the papers at the end of the meeting?

Members indicated agreement.

The Convener: In that case, can the documents be handed round?

Just so that members are clear, what is being handed out now is all the material that has draft before the title. The press and the public do not have the briefing that we received. That remains private, but the draft substance of what we will discuss is now available to the press and the public.

Cross-Party Groups

The Convener: Item 2 on the agenda is on the regulation of cross-party groups. I hope that everyone has had a chance to read the papers in detail. As a result of answers to written questions to Sir David Steel lodged by Richard Lochhead, it was agreed that we would move as quickly as possible to put into a place a scheme for the regulation of cross-party groups. Before we go through the action points, are there any general comments?

Des McNulty: Many of the regulations appear to be derived from the Westminster model and from Westminster practice. Westminster attracts to itself a notion of its own centrality and salience, and there are all kinds of all-party groups that provide ways in which people can exercise influence within a setting where the Parliament itself is relatively inaccessible. If our Scottish Parliament is going to

be different, we must be careful about the bases on which we establish all-party groups. We do not want them to be a mechanism for any particular external or externally led group to have what might be seen to be privileged access to the institution of Parliament. I would prefer a narrower definition of cross-party groups—one that is focused on MSPs—rather than the Westminster model of a mechanism for interest groups to pursue their agendas.

The Convener: Are there any other general comments?

Lord James Douglas-Hamilton: I support what Des said. These groups can have considerable influence, but that influence will be disproportionate if they are merely external groups with minimal MSP involvement.

The Convener: There is a draft before us. Do we want to go through it?

Des McNulty: It might be helpful to go through the draft and highlight some of the issues. We do not have to make a final decision today.

The Convener: We can return for refinements later. We will press on and examine this draft paragraph by paragraph. Perhaps we can take the first three paragraphs—the introduction—together.

Ms Ferguson: This point relates to a later paragraph, but the change that I will propose to it affects the introduction.

The Convener: What are you suggesting?

Ms Ferguson: Paragraph 2 states that cross-party groups must include a member

“from each of the groups represented in the Parliamentary Bureau.”

That is a good aim, but in practice it may be difficult. I have been involved in setting up a group to examine women's issues. Given the number of women in some of the party groupings, it may be difficult to ensure that all the parties are represented on that group. I would like to amend that paragraph so that it is clear that, although we are striving to include all the parties, we recognise that not all cross-party groups will necessarily include members from each party group.

The Convener: We could amend it to “which aims to include”.

Ms Ferguson: It might be helpful to stipulate a minimum number of party groupings.

Mr Ingram: If every party has to be represented, we might have tactical discussions at party group meetings about whether we want a cross-party group established on an issue; it may be counter-productive to stipulate that every party represented in the bureau should have a member on a cross-party group. In addition, some parties

are not represented in the bureau and they should not be excluded.

The Convener: I have been advised that those parties are not excluded—they can join cross-party groups.

Tricia Marwick: Patricia and Adam have made a good point. If it is stipulated that there must be members from all the parliamentary groups that are represented on the Parliamentary Bureau, one party could decide not to take part in a cross-party group, which would mean that the group could not be set up. A way round the problem may be to stipulate that there should be membership from at least two of the groups represented in the Parliament.

Karen Gillon (Clydesdale) (Lab): I have concerns about cutting the minimum representation down to two, as that could mean that the group was not cross-party but only a faction within the Parliament. If all the groups represented in the bureau are involved in a cross-party group, the group would deserve the status of being called cross-party. I understand Patricia's concerns about difficulties that may exist in establishing the women's issues group if one party grouping decides not to participate. However, if we cut the number to two, we may not produce proper cross-party groups.

The Convener: The danger is that two parties representing the Executive—or two parties from the Opposition—could form a so-called cross-party group.

Karen Gillon: We should leave the paragraph as it is. In special circumstances, an appropriate group could be registered as cross-party by this committee or the Parliament.

10:00

The Convener: We could add a sentence to the effect that in special circumstances the rule could be waived by the Presiding Officer.

Karen Gillon: Would it be the Presiding Officer or this committee?

The Convener: I have been informed that it would be this committee.

Des McNulty: If there is to be a process of registration for cross-party groups, it will fall to this committee to construct, maintain and monitor that register.

The Convener: Have we covered that issue?

Mr Ingram: I am not happy with that. My point stands. We could get into a situation in which a cross-party group is blocked. I do not think that an appeal to the Presiding Officer is necessarily the right way forward.

The Convener: We have just decided that the matter would come back to us. This committee would decide on the special circumstances. If there were a difficulty, this committee would be able to waive the rule. Would that be acceptable?

Des McNulty: As an example, suppose that there was a cross-party committee on disability and that it happened that one of the party groups did not contain anyone who was particularly interested in the issue—I know that that is unlikely, but it could happen. Would that mean that we could not have the cross-party group? That would not be reasonable. We must be satisfied that the groups are genuinely cross-party. Given a stipulation such as the one that we are discussing, with the added caveat that Karen has suggested, it may be possible to deal with such problems on a case-by-case basis.

If we are to have genuinely cross-party groups that relate to the Parliament and are not simply vehicles for interests, we require a stronger role for MSPs in the operation of the groups than is implied by the Westminster model. That concerns a number of points but, in the context of paragraph 2, I question whether we should have corporate members of cross-party groups. I do not think that that is appropriate and I would like to dispense with that part of the paragraph.

The Convener: I see a lot of nodding in agreement. Shall we strike out “corporate members”?

Karen Gillon: I do not necessarily disagree, but I have concerns. For example, organisations such as the National Society for the Prevention of Cruelty to Children or Children in Scotland could be excluded from membership of an all-party group on children. I do not accept that those organisations are just interest groups such as the ones that Des is talking about. They have a genuine role to play in consultation and development, and I would be concerned if those types of organisations were excluded from membership.

Des McNulty: I was going to suggest at a later stage—although it seems appropriate to deal with it now—that we use the term “representative groups”. That would cover organisations that are representative of interests that are germane to the activities of the cross-party group—Children in Scotland with regard to a group on children, for example. Individuals could be members of the group in a personal capacity or as representatives of a relevant group. I was concerned about the idea of corporate members, which I do not think any of us would support.

Tricia Marwick: If we take out the final sentence of paragraph 2, all our problems are solved.

The Convener: So it would finish:

“The group may contain members from outside the Parliament.”

Tricia Marwick: Yes.

Des McNulty: Yes, but we should somehow state that the balance of the membership should be MSPs.

The Convener: Do you mean the majority?

Des McNulty: I do not want to be absolutely hard and fast on that, but I want us to be able to say what happens if it is clear that a cross-party group is predominantly run by outside agencies. I do not want to specify the number of members or say that there can be only five people from outside organisations, but we must have an arrangement whereby the cross-party groups are, in effect, led and run by MSPs. However, I do not want to say that the number of members of the group who are from outside organisations must be lower than the number of MSPs on the group.

The Convener: Would it be appropriate to talk about the convener of the group being an MSP?

Des McNulty: We will get down to that later. At this stage, I am anxious to establish the principle that the group should be genuinely cross-party. Relevant outside interests—but not corporate interests—could be represented on it and others could be there as individuals. Accountability would be ensured through the MSPs who were members of the group. They would have to accept that responsibility. Those are the important dimensions to consider.

Tricia Marwick: Are we starting from the right point in looking at the Westminster model? In Scotland, the civic forum and other organisations are the interested groups, which is not the case at Westminster. One of the reasons why cross-party groups were set up at Westminster was to allow people to influence members on their pet subjects.

I am worried that we will have two separate groups running side by side. There would be the cross-party group, which might include people from outside the Parliament, and there would be the legitimate voices of other organisations—such as Children First and others from the children's lobby or those representing people with disabilities—coming together. Are we setting up competing groups?

Des McNulty: That goes back to the point that I raised earlier. There is a demand from parliamentarians for cross-party groups to be set up on a number of issues. Presumably such groups will exist, so we must take account of the issue that I raised, on which Tricia has come in.

The groups must have a distinct purpose and must be linked to the parliamentary process. They must have an accountability mechanism, which

will be achieved through MSPs.

If we can deal with those concerns, we will cut out many of the problems experienced at Westminster and have, at Holyrood, a system that is more genuinely responsive.

Karen Gillon: I understand the point that Mr McNulty is making but I do not think that the problem necessarily exists. A cross-party group is about crossing party divides and getting people to sit down to talk to one another in a way that they perhaps could not do in the Parliament, where things tend to be split along party group lines. It is not always easy for people to discuss their common interests and concerns. There might be cross-party consensus on an issue even though people might not always agree on what policy should be brought forward.

Other organisations do not have the involvement of MSPs—they are interested in specific issues.

MSPs must be clear about the purpose of cross-party groups. It is up to us not to go down the Westminster route and it is important that we have a code of conduct and a set of rules for groups. It is for us to establish how those groups operate and their ethos—although no set of rules will be able to do that.

I have spoken to a number of people from other parties who do not necessarily want to go the Westminster way, but who want a means by which MSPs of different parties can come together to discuss issues of common concern, which might not fit in with work of a parliamentary committee.

Community education is an issue that obviously crosses the remit of two or three committees, but there is a view that people should get together to discuss on an all-party basis how it can be taken forward. That is not necessarily a policy issue; it is about a willingness to discuss the matter. This is about us and how we take things forward.

Lord James Douglas-Hamilton: It is an obvious point, but there should be a distinction between an all-party group and a lobby. It might be absolutely legitimate and democratic for a lobby of several hundred people to campaign for change—on disability allowances, for example—and to call on members of all-party groups, but when such a group gets beyond a certain size, it is no longer an all-party group. That was recognised at Westminster, and it would be safe to recognise it here.

The Convener: We have had a valuable discussion on the general purpose of the rules and regulations covering all-party groups. I want to come now to the draft rules. Is everyone happy with paragraph 1?

Des McNulty: Each group should be required to define its purpose and its scope of operation. It

might not be enough simply to say in paragraph 1 that

“its purpose must be Parliamentary in character.”

That might need to be flagged up at the start.

The Convener: It is mentioned.

Des McNulty: I know that it is mentioned later, but perhaps it should be made clearer from the beginning.

The Convener: Paragraph 3, on the election of officers and so on, is where I suggested the need for a convener. It states:

“At least one of the elected officers must be a Member of the Parliament.”

Is everyone happy with that?

Karen Gillon: It would be more appropriate if at least two of the officers had to be members of the Parliament.

The Convener: Does everyone agree with that?

Tricia Marwick: Yes, and one of them should be the convener.

The Convener: What does the rest of the committee think?

Members: We agree.

The Convener: That would establish the fact that the group was owned by the MSPs.

Des McNulty: It also meets the need for accountability.

The Convener: Is everyone happy with paragraph 4?

Members: Yes.

The Convener: Paragraph 5?

Des McNulty: We have raised the issue of the need for someone to take responsibility for compliance. Should that be the convener, or are all members of the group collectively responsible for compliance? We might be unable to decide that today, as it might be worth speaking to some of the all-party groups about how they would prefer to deal with compliance. Should MSPs take responsibility for it? There is ambiguity in the way in which the document is written at the moment.

Karen Gillon: I would assume that compliance was a matter for collective responsibility, rather than something that should be forced on one member, who could then become the scapegoat—for want of a better word—and punishable by the committee or the Parliament. Perhaps we should set the precedent that compliance is an issue for all members. Then nobody is left out to dry, so to speak, if something goes wrong, for example, with an outside body.

The Convener: That is a fair point. We shall leave paragraph 5 for now. Are there any comments on paragraph 6?

Tricia Marwick: I am uncomfortable with paragraphs 6 and 7, which talk about subscriptions for joining cross-party groups. What would the subscription cover?

Karen Gillon: Communication costs.

Lord James Douglas-Hamilton: A subscription would be just for communication costs, for example, for stationery for those who do not use electronic mail.

Tricia Marwick: Should not we include a line to that effect? I know that paragraph 6 already states that

"the cost to all members must be the same and must be reasonable."

Should not we say also that the subscription is to cover stationery and telephone costs?

10:15

Mr Ingram: We are returning to the difference between the cross-party groups that we are trying to establish and those in Westminster. The matter also arises in paragraph 11, under which the groups are forbidden to use parliamentary facilities such as photocopying and postage. If the kind of cross-party group that we are talking about is owned by MSPs and aims to improve their communication and their ability to impact on the Parliament, surely we should approach the matter differently. Cross-party groups should be supported by the Parliament.

Des McNulty: No.

The Convener: No?

Members: No.

Ms Ferguson: I would not be in favour of Parliament supporting those groups. The budget would quickly quadruple if that were the case. I understand that members hesitate to have a subscription for those groups, but on the other hand there might be circumstances, such as the purchase of stationery or making arrangements, where a subscription is necessary. Is it possible to include in the registration of the group a declaration about the purpose of any financial levy and how much it is likely to be for the next year? Members will register on an annual basis, and that might get us round the problem.

Lord James Douglas-Hamilton: Usually a subscription was just for the secretary's cost—preparing the minutes and sending out letters for the next meeting—and often it was only about £1 a year.

Mr Ingram: I do not think that the question has been addressed. We are getting confused between the two models.

Tricia Marwick: Adam's point is well made. We have already had e-mails from a number of MSPs asking whether we would like to join the cross-party Campaign for Nuclear Disarmament group, the animals group or the film group. Paragraph 11 suggests that the IT system cannot be used even for that. I cannot even pick up a telephone and call Karen and ask her whether she fancies joining a cross-party group on disability. Surely that strikes at the heart of what the cross-party group, as articulated by Karen, should be. It is about the ability of MSPs from all parties to sit down together and discuss common interests.

Des McNulty: Perhaps the drafting is the wrong way round. On the one hand we are saying that cross-party groups must notify their meetings on the web. On the other, we are saying that they cannot use the IT. That is absurd. Perhaps we should say that cross-party groups should pay if they use parliamentary facilities that bear a cost. For example, if they are sending external mail from the Parliament, they should pay for that.

The Convener: I have just been advised that, although we can give an opinion on the use of parliamentary resources, that is a matter for the Scottish Parliamentary Corporate Body.

Des McNulty: Absolutely.

Karen Gillon: I find Des's suggestion sensible, but I fear that in practice it would not work. My concern is about free postage. It could spiral out of control anyway, even before all-party groups used the facility.

We can express an opinion on this. It is acceptable for me to phone or e-mail an MSP, but not for me to put out a mailing to 25,000 people on behalf of a group. Perhaps this should be examined urgently by the bureau, Des. Although it is about how cross-party groups function, it is also about the good use of public resources. I would not want this committee or any all-party group to be accused of misusing public resources.

The Convener: Do we agree that the use of parliamentary resources by cross-party groups be referred to the SPCB?

Members *indicated agreement.*

The Convener: I will pass on the views of the committee.

We will move on to paragraph 7.

Mr Ingram: Paragraph 7 contains the first mention of registered members. Should not a register of members be mentioned under paragraph 1?

The Convener: I am told that paragraph 4 refers to that. It states:

"The group must comply with the requirements on the registration of Cross-Party Groups".

Mr Ingram: Is not the registration of cross-party groups different from registered members of cross-party groups?

The Convener: The requirements include the registration of all members.

Paragraph 8 begins:

"Cross-Party Group meetings must be held in public."

Karen Gillon: Notice of one sitting day before a cross-party group meeting is perhaps not long enough to allow the public to arrange time off work or child care, in order to attend such a meeting. More notice would be appropriate.

The Convener: Any suggestions?

Mr Ingram: A week.

Karen Gillon: Notice should be given a week before meetings.

The Convener: Meetings should be announced a week before they take place.

Paragraph 9?

Des McNulty: Yes.

The Convener: It addresses the points that we made earlier on.

Paragraph 10?

Des McNulty: Is there an issue here? People can use the restaurant as guests of MSPs. On security grounds, apart from anything else, that is the only reason why they should be allowed to do so. We should avoid the implication that registered members of groups have a status other than as guests.

Karen Gillon: The problem might be solved by tightening up the wording. Registered members of groups should have the same status as that of any other visitors.

The Convener: Paragraph 11?

Members indicated agreement.

The Convener: Paragraph 12?

Members indicated agreement.

The Convener: Paragraph 13?

Members indicated agreement.

The Convener: Therefore, we are happy with the rules on cross-party groups in the Scottish Parliament.

Members indicated agreement.

The Convener: We will move on to the

registration of cross-party groups in the Scottish Parliament. Are there any comments?

Des McNulty: Do we want to leave it absolutely open, and say that any group can qualify, as long as it has two members—or four or whatever—who decide that they will have an all-party group? Do we want to say what we think the purpose of an all-party group is?

The Convener: That is defined in the first rule on cross-party groups:

"its purpose must be Parliamentary in character."

Des McNulty: That goes back to my earlier point about our at least giving some direction. Some groups already exist: there is an all-party group on disability and an all-party group on women's issues. Both are fine, and I do not think that anyone has stepped outside the bounds of what is reasonable. However, it is possible to imagine the establishment of all-party groups that were purely mechanisms for lobbying. I would be nervous about such groups, so rather than the rule saying that groups should be parliamentary in purpose, I would prefer it to say that groups should take up particular issues that were widely acceptable. The rule could also make it clear that groups were not to replicate the work of a particular committee.

The Convener: It has just been suggested to me that we could insert a reference to the Standards Committee reserving the right to refuse to recognise a group.

Des McNulty: If members apply to establish all-party groups, and we are unhappy about the group, we could ask questions about it. That might be a way of sorting out the problem.

Karen Gillon: Will the subscription and what it will be used for be put on the form?

The Convener: Yes.

We should go through the paragraphs under the heading of "Registration of Cross-Party Groups in the Scottish Parliament". Are there any comments on the first paragraph?

Des McNulty: If members are to apply to register groups, the paragraph will need to be reworded. Because of the way in which it is written at the moment, a group can just establish itself and notify the standards clerk. There will have to be an extra step in the mechanism, whereby groups apply for recognition.

Karen Gillon: There is nothing to stop four members of the Parliament setting up a group; the question is whether that group is recognised. I could establish a group with three of my pals; it would be a group, but the question is whether it would have any status or recognition in the Parliament. I assume that only when a group

applied to be registered would it be recognised and be able to use facilities.

Des McNulty: That is right.

Ms Ferguson: Will it be necessary to mention the groups that have already started up, so that they are not excluded just because of the form of words that we have used?

The Convener: Excluded because the paragraph says that groups must register within 30 days of their first meeting?

Ms Ferguson: Yes. It would be a question of simply adding on a sentence at the end.

The Convener: That would be sensible. Shall we move on?

Tricia Marwick: The second paragraph mentions the requirement to notify the clerk of changes. I am not sure of the meaning of

“negative as well as positive changes, for example, when a member leaves a group.”

Do we really want the clerk to be notified when any individual leaves a group; or do we want them to be notified only when an MSP leaves a group?

The Convener: That is a good point. The paragraph should be clarified; it should refer only to MSPs.

Tricia Marwick: Yes, and not to every individual member.

10:30

The Convener: The next paragraph begins:

“Any MSP who is an elected officer”.

Des McNulty: That is fine.

The Convener: The next begins:

“The Standards clerk will enter the details”.

Des McNulty: Karen raised the issue of whether we are talking about individual responsibility or collective responsibility for compliance. The wording suggests that it is individual responsibility and Karen suggested that it should be collective responsibility for MSPs who are members of a particular group to ensure compliance.

The Convener: That is fine.

Des McNulty: We could make it the office bearers on behalf of the MSPs.

The Convener: I move on to:

“The Standards clerk will enter the details”.

Again there will be an issue about application for registration, which is probably what we will have. The paragraph might have to be rewritten to take that into account.

Des McNulty: There needs to be only a wee bit of tweaking to put the wording in line with the intentions that we have mapped out.

The Convener: The document goes on to say that the register can be publicly inspected and will be available on the website. Our job will be to monitor the register and comply with its requirements.

Des McNulty: We do more than monitor registration; we control it.

The Convener: Should we say, “monitor and control”?

Des McNulty: People register with us; that is the way it is. Then we monitor the compliance. So there are two stages.

The Convener: Okay. I have just had a question from the clerk. Does the committee intend to look at every application? I assume that that is what we are talking about. Is it?

Des McNulty: We might have a list of 10 or 15 applications. In general, they would just be nodded through. You would tell us whether you felt that they complied and we could raise any questions at that point. However, I do not think that we would go case by case.

The Convener: Are members happy with that?

Members indicated agreement.

The Convener: The next paragraph, on advice, states that

“responsibility for compliance with the registration requirements rests with the group, in particular, the MSP nominated by the group for ensuring compliance.”

Ms Ferguson: I would widen that.

The Convener: That is wider than the individual, is it not?

Lord James Douglas-Hamilton: Could it say “the secretary”? It would be an awful nuisance if every member of the group had to go to the Standards Committee clerk every time there was a change of membership, with one member joining or leaving.

Des McNulty: Unless the office bearers did it.

The Convener: As long as somebody does, it is fine. That is the point, if I understand it correctly.

Des McNulty: I think that we all agreed on collective responsibility, but a code of guidance should say how that is to be exercised. I assume that it is part of the requirements on the group for registration that people are authorised to deal with that.

The Convener: Right. Let us move on to compliance with the rules on cross-party groups.

Des McNulty: Before we do that, I want to ask about the “NB” in the previous section. Is not that point more generally covered by the code of conduct? I find it hard to see what it refers to. Perhaps Lord James can quote us case law from Westminster to explain it, but I am unclear as to what is behind it.

The Convener: Do you have any comments, Lord James?

Lord James Douglas-Hamilton: No.

The Convener: It is just a reminder—beware.

Karen Gillon: We also need to include something about the code of conduct, which deals with the other side of the equation and tells members that registrable interests might arise as a result of involvement in an all-party group. We need to cover this from both sides, so that no one can say that they did not know.

The Convener: Let us to move on to compliance. The document states:

“An MSP who is an elected officer of the group will be required to sign a declaration within 30 days of a group’s first meeting confirming that the group is constituted in compliance with, and will comply with, the rules on the operation of Cross-Party Groups.”

Are we happy with that?

Des McNulty: Yes, although it should be part of the registration process.

The Convener: The next heading is, “Failure to comply with or contravention of the rules on Cross Party Groups”. We will consider those three paragraphs together.

Tricia Marwick: I have a query about the phrase

“could also lead to penalties being imposed on a Member by the Parliament.”

in the final paragraph. What happened to the collective responsibility of all MSPs?

Des McNulty: One way of dealing with that would be to say that failure to comply with the rules on cross-party groups was equivalent to failure to comply with the general code of conduct.

Karen Gillon: What I meant by collective responsibility was that all members were responsible, and that if a member saw something going wrong, it was their duty either to do something about it or to bring it to the attention of this committee. I would be concerned if a member who brought such a matter to our attention was penalised along with everyone else involved.

It is just a matter of wording. If something goes wrong on a committee and no one tells anybody about it or does anything to change things, all are liable, but people should not be penalised for

bringing problems to our attention. That goes against everything that we are trying to do on promoting whistleblowing in the workplace. I am not particularly concerned about this, but I think that collective responsibility means that if a person sees something going wrong, it is up to them to get it sorted out. If other members refuse to do that, it is for this committee or the Parliament to take action.

The Convener: Can we leave the paragraph as it stands?

Des McNulty: I reiterate my suggestion that it would be helpful to include a reminder to members that when they take part in cross-party groups, they continue to operate under the general code of conduct.

The Convener: The final heading is, “Membership of other groups”.

Des McNulty: I agree with the paragraph.

The Convener: Okay.

Des McNulty: We have made one or two adjustments of principle, and it might be helpful if we wait until our next meeting, when the issues of principle will have been clarified, before we go through the next set of documents.

The Convener: That will be on the agenda for our next meeting—it will be busy.

Code of Conduct

The Convener: Item 3 concerns the draft code of conduct. At our previous meeting, the committee agreed to consider again—at this meeting—the draft introduction and key principles of the code of conduct.

The text agreed at our previous meeting is indicated on the draft in bold. The text proposed by the clerks for consideration, reflecting members’ views, is underlined. Points that the committee agreed to flag up for further consideration are in brackets. Even after this meeting, we may amend the document. The committee is invited to consider the draft introduction and key principles of the code of conduct and to agree a text.

We can see the changes on the first page of the introduction. We will go through the paragraphs where changes have been identified and ignore those where there are no changes.

I assume that everybody is happy with the first paragraph.

In the second paragraph, we decided to leave in the words about “integrity”, that

“it is a principle which must underpin all that Members do.”

Des McNulty: That principle, which forms the

second clause of that sentence, is repeated in the third paragraph:

"Members must meet those expectations by ensuring that their conduct is above reproach and worthy of the trust of the electorate."

We might have engaged in a wee bit of overkill in the document. In the interest of neatness, I would take out that sub-clause.

Karen Gillon: Are we taking out the bit that refers to the principle of integrity?

The Convener: I can just see tomorrow's headlines.

Ms Ferguson: It would read better if the second and third paragraphs were swapped.

The Convener: Are we agreed that we should do that? We are agreed.

After the sentence:

"The Code explains into which category the rules set out there fall."

an item in brackets at the bottom of the page states:

"Committee may consider a reference to advice in the Code".

There was a difference of opinion last time as to whether advice should be there. Are we agreed that we shall include the reference? We are agreed.

Des McNulty: There is more repetition. The first sentence of the last paragraph of the introduction reads:

"The Code of Conduct underpins the approach that Members are required to take in carrying out their duties."

There is a weaker version of the same sentence in the last paragraph on the first page:

"The Code which follows is intended to set out how the Members of the Parliament will carry out their responsibilities."

I wonder whether we should include only the stronger version.

Karen Gillon: We could replace the wording on the first page with the first line of the last paragraph of the introduction.

Des McNulty: Yes. That would mean that the last paragraph of the introduction referred only to members' responsibility, which makes it clearer.

The Convener: I am happy with that.

Des McNulty: My only other point relates to the third paragraph on the second page. We should insert the word "best" into the paragraph that reads:

"The Parliament is determined to be at the forefront in developing practice on standards matters".

That would make it clear that we are talking about best practice.

Tricia Marwick: I might have raised this last time, but perhaps I imagined it. Does the document have to say that we are drawing heavily on the recommendations of the code of conduct working group of the consultative steering group? Do we want to continue to make references to the CSG and the Nolan committee for ever? We might agree with other bodies' recommendations, but surely the code is ours.

The Convener: The advice that we were given last time was that the code is an interim document. It will not stand for ever and a day. There will be an opportunity to remove such references when the code is revised.

10:45

Karen Gillon: At this stage, it would be useful to retain the reference to the consultative steering group as, for many people in Scotland, it underpinned what the Parliament was about—consensus, cross-party working and discussion of business with the public. If we took that reference out, at this early stage, it would look a wee bit bad. I know what Tricia is saying, but the consultative steering group set an agenda or standard for the Parliament, and I think that we should keep the reference to it. However, I understand that, in the longer term, we might want to take that reference out.

The Convener: Let us move on to the key principles of the code of conduct. We removed the words:

"They are a means by which Members declare what they stand for."

New words have been inserted in bold type.

Is everyone now happy with that first paragraph?

Members indicated agreement.

The Convener: We proceed to the paragraph entitled, "Public Duty".

Tricia Marwick: That might require a fairly lengthy discussion. As there are implications for members other than ourselves, I wonder whether it would be worth asking other members of the Parliament for their views. We might get a good cross-section of views. It is quite important whether that paragraph is left in or taken out, and opinion should be sought outside the Standards Committee.

I suggest that we agree the rest of the code of conduct today, then return to that paragraph for a discussion on whether we should put the key principles out for consultation with MSPs and allow them to feed back to the committee before we

proceed further.

The Convener: Are there any other views?

Lord James Douglas-Hamilton: My party would be against dropping the oath of allegiance or affirmation. The paragraph stresses the choice of affirmation, so there is religious tolerance. Such a gesture is viewed as an act of loyalty to the country.

Tricia Marwick: The issue is not whether it is an oath of allegiance or an affirmation—we have already discussed that. At the previous meeting, I highlighted the fact that I wondered about its place in the code of conduct; that was the issue. If we are asking MSPs to sign up to this part of the key principles, they should have the opportunity to comment on it before we debate it.

Karen Gillon: Having read the paragraph, and having spoken to people about it, I understand that it is a statement of fact. It is not a matter for discussion. By taking the oath of allegiance or by making the affirmation, a person becomes a member. If that is something that we do to become members of Parliament, why should it not be in the code of conduct for members?

If we pick and choose which bits of the code of conduct we put out for consultation, that will set a dangerous precedent. There are many issues in the code of conduct on which we could, if we put them out for consultation, receive a wide range of views across the parties. As I understand it, this is a statement of fact, based on our membership of this Parliament, and I have no qualms about saying that it should be in the code of conduct.

The Convener: I shall try to crystallise the argument. The debate is not yet on the substance of the issue, but on whether we deal with it now—and at our previous meeting we agreed to delay dealing with it—or whether, as Tricia suggests, we should delay dealing with it.

There are two further questions: should we delay discussion until a future meeting, or should we send the issue out for consultation? We need to address those two questions.

Tricia Marwick: Lord James and Karen both highlighted exactly what I was saying. They have discussed the matter with other members, and other members have views. I do not think that it is unreasonable to ask all members for their views on the key principles that they will be asked to sign up to.

The Convener: I have been advised that it is unusual to suggest such a consultation.

Karen Gillon: The reason that I was asked about that particular section was because it appeared in the newspapers, following our meeting. That is why it became an issue for

discussion. Other sections of the code of conduct were not picked up on by the newspapers and did not become issues discussed by other members.

It sets a dangerous precedent and, as I have said before, I think that we need to take a decision and move on.

The Convener: The majority view seems to be that we should consider the matter now.

Mr Ingram: I tend to agree with Tricia. We certainly have not discussed the matter with SNP members, although it appears that other members of the committee have discussed it within their parties. Neither Tricia nor I have discussed it with our party, so we appear to be at a slight disadvantage.

The Convener: I can say that the Liberal Democrats have not discussed it.

Karen Gillon: It has been discussed by individual members who liaised as a result of a press article.

Lord James Douglas-Hamilton: I have not discussed the matter formally with my party, but I know what members' views would be and I hope that I am interpreting those accurately.

The Convener: I think that we should address the matter now.

Des McNulty: I support Karen's view that this is a statement of fact. We have all already done it, and, at one level, we cannot uninvent that. I think that it should stand.

Perhaps we can make the issue clearer by considering the content of the first paragraph, which combines a number of issues with which we are able to deal.

The Convener: Yes, that is right. We are now in the process of considering the issue and Des is suggesting that we reconsider the wording of the paragraphs. The clerk and I discussed that before the meeting, and we might suggest a change if the committee is willing to examine the wording. How would members feel if we changed it to something like: "Members have a duty to uphold the law and act in accordance with their oath of allegiance and affirmation made in Parliament, and with the public trust placed within them"? That would combine both elements.

Des McNulty: My view is that we should leave the second paragraph, because it is a statement of fact. However, if we consider the first paragraph, we could say something along the lines of: "Members have a duty to uphold the law and act in conformity with the requirements of the procedures of the Scottish Parliament. Their primary duty is to act in the interests of the Scottish Parliament as a whole and the public that it serves".

I am not sure that I particularly want to make those final changes here. Looking at some of the other issues involved, I do not think that we are going to come to a conclusion for every dot and comma today. However, in principle we should be deciding that.

The Convener: Perhaps we can come back to the first paragraph at the next meeting.

Mr Ingram: I would like to suggest a different emphasis for the first paragraph. I would prefer the words

“and a duty to act in the interests of the Scottish Parliament as a whole and the public it serves”

to read: “and a duty to act in the interests of the Scottish people and their Parliament”. That wording would help to emphasise the different approach we have in Scotland. Our notion of popular sovereignty is that the people—not the Parliament—are the sovereign body. I would like it to be emphasised in the first key principle on public duty that our responsibility is to the people first.

The Convener: The proposal is that the first paragraph should read: “Members have a duty to uphold the law and to act in accordance with the public trust placed in them; and a duty to act in the interests of the Scottish people and their Parliament.” Is that acceptable?

Des McNulty: Again, I would prefer not to finalise that until we have had a chance to see it on paper.

The Convener: Remember that we will return to the whole document at the end of the exercise. The proposed text is not set in stone and this is not a final statement. I remind the press and public of that as well. If we changed the first paragraph as Adam suggested, we would keep the second one as it is.

Mr Ingram: I would prefer to delete the second paragraph, primarily for the reasons that we have already discussed. The first—

Karen Gillon: We should put it to a vote.

Mr Ingram: Please let me finish. The first paragraph begins:

“Members have a duty to uphold the law”.

Why are we repeating, in the second paragraph, something that we have already undertaken to do?

Des McNulty: Adam is trying to use the code of conduct to establish his view of the constitutional position. Although he may want the code of conduct to operate as he would wish it to, it does not necessarily do that. He is not being entirely in line with something that would operate on behalf of the whole Parliament, but our responsibility is to arrive at a code of conduct that recognises the

existing position and is acceptable across the board. We are not having a debate about constitutional structures; we are trying to establish a code of conduct that deals with public duty.

Mr Ingram: No, I regard—

The Convener: Hang on a minute.

Karen Gillon: With the best will in the world, we are not going to reach consensus on this, even if we sit here for the next three weeks and debate whether this paragraph should be included. I understood that we had decided to deal with it now. If necessary, we should have a vote.

The Convener: I do not wish to push things to votes. My understanding is that the majority view is that the first paragraph should be changed as Adam suggested and the second paragraph should remain the same. Can we move on?

Des McNulty: We are not necessarily accepting the words that Adam suggested for the first paragraph. I think that we should look again at the first paragraph, but accept the second paragraph. That gives Adam the opportunity to make his case, if he wants to.

Mr Ingram: If we are looking at the first paragraph again, we should look at the totality of the key principle. We cannot have one law for the first paragraph and another for the second.

The Convener: I am trying to ensure that we do not keep going back to items on the agenda. We will review the whole document again once we have amended it. Adam can raise his point again at that stage. We must try to move on. We have a majority view on the second paragraph, and I seek guidance from the committee on the wording of the first paragraph.

Karen Gillon: As in previous instances when there has been a discussion about particular wording, I suggest that the clerks come back to the next meeting with a slightly revised form of wording for the first paragraph.

On the second paragraph, the issue is not about the wording; it is about the principle.

11:00

Tricia Marwick: My argument with the second paragraph is that I do not think that it has any place in a code of conduct that regulates how MSPs act in carrying out their duties. If a majority of the committee agrees today that the paragraph should remain, I want to flag up my disagreement with that decision.

The Convener: Tricia, it is your right to do that and your disagreement will be minuted.

Mr Ingram: I would like to disagree as well. It is a fundamental mistake to include that paragraph in

the code of conduct.

The Convener: We will move on to “Duty to Electors”. Please examine the first paragraph at the bottom of the page.

Karen Gillon: The change that we made to the first line has been picked up. “Duty to Electors” now needs to be changed, as we said that we have a duty to all members of the public in our constituencies—those who are too young to vote and those who are in institutions where they are unable to vote.

Des McNulty: Yes, it should read “people” rather than “electors”.

Karen Gillon: Perhaps it should read “duty to the public”.

The Convener: Are you suggesting “duty to the public” or “public duty”?

Mr Ingram: I suggest that we delete the second sentence and insert a sentence that would read: “Members have a duty to be accessible to the people of the areas for which they have been elected to serve and to represent their interests faithfully”. Would that be reasonable?

The Convener: Are you suggesting that we replace that second sentence?

Mr Ingram: I suggest that we delete the second sentence and, at the end of the first sentence, add “and to represent their interests faithfully”.

The Convener: Are members happy with that suggestion?

Tricia Marwick: I want to highlight the word “accessible”. I would like an explanation of what we mean by it. We are accessible by phone and by letter, but those of us who are list MSPs have one office between three or four of us. Our ability to be accessible is in the hands of the corporate body, rather than in our hands.

Karen Gillon: Convener, the issue of accessibility covers not only list MSPs, but those MSPs who have large rural constituencies, such as my constituency. I could have quite easily argued for four or five offices, given my constituency’s geographical spread. However, that does not mean that I will be any less accessible to the people whom I seek to represent. Accessibility is about making yourself available, by telephone or letter, or by holding public meetings or surgeries. It has a range of implications as different constituencies will have different needs. It is not for this committee to prescribe to members how they make themselves accessible; rather we must ensure that there is an expectation in the code of conduct that members will be accessible.

Tricia Marwick: Is there a better word that would set the concept down more carefully?

Ms Ferguson: The concept of accessibility comes from the CSG; it is one of the founding principles of the Parliament.

Lord James Douglas-Hamilton: Dedication is another.

Tricia Marwick: “Accountable” is a far better word.

Lord James Douglas-Hamilton: May I suggest “conscientiously”?

The Convener: I think that “accessible” is an important word, as it appears throughout the CSG report. There is a certain expectation that we are accessible.

I have just questioned the clerk again about the paragraph heading, “Duty to Electors”.

Tricia Marwick: Should we not just take that out?

The Convener: Just remove it, and add—

Karen Gillon: What is that?

Tricia Marwick: It is the paragraph heading, Karen.

The Convener: “Duty to Electors” was struck off.

Tricia Marwick: I thought that it had been taken out.

Karen Gillon: We just need to find some other form of words.

The Convener: I was suggesting that we put that paragraph headed “Duty to Electors” under the previous heading of “Public Duty”.

Karen Gillon: Lord James, did you suggest a different word in the part “and to represent their interests faithfully”?

Lord James Douglas-Hamilton: Something like “conscientiously” instead of “faithfully”. If someone is approached by a drug dealer, who has certain requests, they would not want to act for them faithfully.

The Convener: Shall we delete that last sentence?

Tricia Marwick: That whole sentence? Is that what you are saying?

The Convener: No. What are we doing?

Karen Gillon: That is what Adam was suggesting.

Mr Ingram: I suggest that we delete the whole of the last sentence and replace it with James’s additional amendment to the first sentence.

Vanessa Glynn: As I understand it, the section would now read: “Members have a duty to be

accessible to the people of the areas for which they have been elected to serve, and to represent their interests conscientiously.”

The Convener: Are we happy about that?

Let us now move on to the paragraph headed “Selflessness”.

Des McNulty: So we are actually taking out headings?

The Convener: Yes, we are taking out the “Duty to Electors” heading and amalgamating the paragraphs.

Des McNulty: One of the things that I said at the previous meeting and which, having considered it again, I want to repeat, is that we have ended up taking the Nolan headings, and it is often very difficult to separate what is distinct about selflessness, integrity and honesty. The compartmentalisation is difficult. We may want to take headings out generally and make the code of conduct a non-headed text.

Karen Gillon: The other option is to have the section headed “Accessibility”. I understand what you are saying, Des, but it would be easier to read if it is split up. “Accessibility” would perhaps be a more appropriate heading.

The Convener: That is a good point. I understand what Des is getting at, looking at a logical, structured approach. It has just been pointed out to me that, if there is a list of half a dozen words that represent what we stand for, such as selflessness, integrity, honesty and openness, that helps the general public. That is the other side of the coin.

Karen Gillon: Accessibility?

The Convener: Accessibility as a heading, then, rather than the removal of a heading?

On the next page of the draft code is the heading, “Selflessness”—unchanged—followed by “Integrity”, “Honesty”—

Des McNulty: This may be a linguistic issue. We talk about duties on page 4, and then, when we have selflessness, integrity and honesty on the next page, there is nothing about duties. There is perhaps an argument for being consistent: talking about duties right the way through. There could be a sentence such as, “Members have a duty to take decisions solely in terms of the public interest.”

The Convener: So we should include that?

Des McNulty: It could be done that way.

The Convener: It could be worded like that. Have the clerks got that?

The next paragraph that we are considering for the changing of text is the one headed

“Openness”.

Lord James Douglas-Hamilton: I think that there was a dilemma over the second sentence of the openness section. My first reaction was that the second sentence was implicit in the first. My second doubt was about people who are ill: a patient may not want all their circumstances made known. If information is restricted in relation to a patient, one cannot argue that the wider public interest is involved, but certainly the patient's interest is. Is that second sentence necessary?

The Convener: Will we delete it? That is agreed.

Des McNulty: Does the same point apply in the third paragraph? If a member is given information in confidence, they should respect that confidence under almost all circumstances.

Karen Gillon: On my first reading, I would have been happy that the first sentence was sufficient, but perhaps there needs to be a mention of confidentiality there. The wording in the last paragraph is a little clumsy. Perhaps a tighter form of words could be used on confidentiality for individuals, which does not compromise members, for example, in criminal cases. If somebody tells me that they had committed a murder, I would not be able to keep that confidential, but if they tell me about a personal problem, confidentiality is an issue.

Tricia Marwick: Perhaps we should reinstate James's deletion. The second sentence is a statement that we will do our best not to restrict information. We could leave that in and slightly amend the next paragraph to say: “However, where a member has received information in confidence, or where disclosure of information might breach an individual's privacy, that confidence or privacy will be respected.”

I think that covers all the concerns that members have raised.

Karen Gillon: This goes back to a point that I made at the previous meeting, that we are discussing two issues. There is constituency casework and there are decisions that I make in the chamber or in this committee. We should perhaps have two sections. I have no problem with justifying how I vote on an issue to anybody. That is my duty. However, how I deal with an individual constituency case is a matter between the individual constituent and me. I am concerned about constituency cases becoming wrapped up in the issue of openness.

The Convener: There are definitely two themes.

Des McNulty: On selflessness, integrity and honesty, the requirement not to take decisions on the basis of financial or material gain is stated. However, some of the local government codes go

beyond that and state that you must take all reasonable steps to avoid the inference that you have acted in that way. We should perhaps consider including that.

Ms Ferguson: I think that there is a reference to that somewhere else in the paper, I cannot remember exactly where.

The Convener: Can we come back to that point?

Des McNulty: Yes, we should, to tie that up.

11:15

The Convener: The decision at the last meeting was to move the paragraph under the heading of "Responsibility for Decisions" and to amalgamate it with the section on "Accountability", which now says:

"Members are responsible for the decisions that they take. They will consider issues on their merits, taking account of the views of others."

Members are accountable for their decisions and actions to the Scottish people. They will submit themselves to appropriate scrutiny."

There are a couple of issues here. We may wish to expand or change the first paragraph. What do members think?

Karen Gillon: Could not we combine that with the first line from the section on openness? That line is:

"Members will be as open as possible about all the decisions and actions they take."

We could then combine the ideas of openness and accountability and have a separate section relating to constituents and confidentiality. Is not that possible?

Vanessa Glynn: Those are different issues.

Karen Gillon: That is what I mean. That may not be helpful.

Des McNulty: There is an issue about decisions in the section on openness. Openness should be about actions and accountability should be about decisions.

The Convener: Are there any other views on that?

The first paragraph on the section on accountability is quite open.

Karen Gillon: It is suitably open.

Lord James Douglas-Hamilton: We could put the two together as Karen has suggested, but I understand that Des is opposed to that. They are technically different issues, but they would go neatly together. What does Des feel about that?

Des McNulty: I am quite relaxed about that. We

have based our work on the Nolan procedures, which relate to people in governmental or quasi-governmental posts.

Decisions are, arguably, made by the Parliament rather than by individual members. Members have a role in the decision-making process, but they do not make decisions individually in the Parliament. We decide how we will vote, but it is the accumulation of votes on which decisions are based.

The Convener: That is one view. We are certainly accountable for the way that we vote.

Karen Gillon: That is in the best Liberal Democrat tradition, Mike.

The Convener: How do we proceed?

Ms Ferguson: There is some duplication of sentiments in those two sections. They are two different subjects, but the code of conduct would read much better if they were together.

The Convener: We will do that, then.

Lord James Douglas-Hamilton: It is not exactly clear what "appropriate scrutiny" means. It might mean an appearance in court in the box for the accused, or an appearance before a tribunal. I am slightly uneasy because it is subject to misinterpretation.

The Convener: Is it necessary to remove that sentence? Members think not.

Karen Gillon: If the Parliament is to be open and accountable, then it is implicit that we will be scrutinised.

Ms Ferguson: Is that the case even if we must wait four years for scrutiny?

Karen Gillon: Yes.

The Convener: The next heading is "Leadership."

"Members will promote and support these principles by leadership and example, to maintain and strengthen the public's trust and confidence in the integrity of the Parliament and its members in conducting public business."

Are members agreed? There is agreement.

Karen Gillon: Yes, agreement and consensus.

The Convener: There is still the last bit about "Guidance on the Code of Conduct" to deal with.

Karen Gillon: Is the clerking department happy with that section? We have to ask that question as the section puts a lot of responsibility on members of staff.

The Convener: That is unfortunately part of the job.

Karen Gillon: I just wanted to clarify that.

Vanessa Glynn: The section is acceptable. The code explains that while the clerks are willing and happy to give advice, it remains the members' responsibility to ensure that they comply with the code.

The Convener: We are approaching the two-hour mark. If everyone is in agreement, I think that this would be an appropriate place to stop.

Do members want to return to the key principles at the next meeting or should we put them aside, progress, and return to them at the end of the process?

Karen Gillon: Can we finish that section at the next meeting? The adjustments appear to be quite minimal. When we come back to the committee, we can deal with the changes and get the section out of the way as soon as we can. Then we can move on. We need to consider only the bits that we have got to change and do not need to go through it all paragraph by paragraph again.

The Convener: It has just been suggested to me that we set a time limit, but I am not sure that that is appropriate. We just need to have it in our minds that we do not spend an awful lot of time on the matter. We will deal with it quickly at the beginning of the next meeting and move on.

Thank you for coming.

Meeting closed at 11:21.

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