

STANDARDS COMMITTEE

Wednesday 29 September 1999
(*Morning*)

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STANDARDS COMMITTEE 5th 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

THE FOLLOWING MEMBER ALSO ATTENDED:

Mrs Margaret Ewing (Moray) (SNP)

COMMITTEE CLERK:

Vanessa Glynn

ASSISTANT CLERK:

Alastair Goudie

Scottish Parliament

Standards Committee

Wednesday 29 September 1999

(Morning)

[THE CONVENER *opened the meeting at 09:32*]

The Convener (Mr Mike Rumbles): Welcome to the fifth meeting of the Standards Committee.

Members received the agenda last week—I think on Friday—and I would like to take the items in the order that they appear on the agenda.

Cross-party Groups

The Convener: We will start with item one, which deals with the regulation of cross-party groups. At the previous meeting we discussed a draft scheme on the regulation of cross-party groups in the Scottish Parliament. The underlining on the briefing paper indicates new or amended text.

Tricia Marwick (Mid Scotland and Fife) (SNP): Convener, were you not intending to make a statement at the opening of this meeting?

The Convener: We agreed yesterday that that would happen at the beginning of the next item on the agenda.

I assume that everyone has had time to read the documentation on cross-party groups. I would like to address action points by the committee. First, the committee is invited to consider the attached drafts and to agree the texts. Let us turn to the text on cross-party groups in the Scottish Parliament. How would members like to play this?

Des McNulty (Clydebank and Milngavie) (Lab): Can we go through this page by page, convener? I would like to make a number of specific comments, but before I do so I would like to congratulate the clerks on doing the difficult job of drawing together the strands of this particular paper very well.

We have set up our cross-party groups very differently from those at Westminster. The committee's intentions for carrying this forward have been put into reasonable shape. Any points of detail that I want to raise or highlight are in the context of welcoming something that has been done thoroughly and effectively.

The Convener: Des would like to take this page by page. If we consider the first page, members will see that there is a large amount of new material.

Do you have any comments on that first page, Des?

Des McNulty: I am quite happy with it. It expresses what we wanted it to.

The Convener: Do other members have any comments to make?

If not we will move on to the second page, starting with item two.

Des McNulty: I would like to say something about item four on that page. For the sake of clarity, the third sentence should say "elections for office bearers" instead of "the elections".

We should consider a period of 10 days' notification in advance of a meeting, as it is normal to give a lengthier period of notice before a meeting at which there will be an election of office bearers than for a normal meeting. Ten days would be fairer to everybody.

The Convener: Are members happy with that?

Members: Yes.

Des McNulty: In item seven—which refers to members being charged a subscription—we should include in brackets the words "e.g. to cover administrative costs". That would illustrate the purpose for which a subscription might normally be required.

The Convener: Yes.

Des McNulty: We should relax item 10 slightly and say that both MSP members of the group "should be present" rather than "must be present" at meetings of cross-party groups. I would not want meetings rendered invalid because MSPs intended to attend and then found that they were unable to. Intention is the important issue.

The Convener: That seems reasonable to me. Are members happy with that?

Members: Yes.

The Convener: Are members happy with paragraph 11?

Des McNulty: I would like comment on item 12. It is reasonable for cross-party groups to use the e-mail facilities in the Parliament to notify people of their business. That is not being facilitated by item 12 and we should amend the item to allow that to happen.

Mr Adam Ingram (South of Scotland) (SNP): I read that as well, Des. We discussed at the previous meeting that it would be unreasonable for MSPs to be unable to use e-mail and telephones in pursuit of good cross-party purposes.

The Convener: I have been advised that we can recommend that to the Scottish Parliament Corporate Body.

Mr Ingram: I think that we should do that.

Des McNulty: I would like to say more about item 12. I think that it is reasonable that cross-party groups be allowed to use the Scottish Parliament information centre, but they should not be allowed to use it in a way that will generate costs for SPICe. It is reasonable for people to go and examine material in the library but not necessarily to cause additional costs to the facilities.

The Convener: They should have access but not incur costs. That is a good point.

Are there any other comments on this page?

Des McNulty: I would like to comment on the bullet points in the section on registration of cross-party groups. I am not sure why "certain" is used in the penultimate point. I would miss that word out.

The Convener: That would make the point more explicit.

I have been advised that there is a threshold of £250.

Des McNulty: We could make that threshold explicit rather than using "certain".

The Convener: Would members like to make any other points relating to that page?

Des McNulty: I have no more points to make in relation to the rest of the document.

The Convener: Is everybody happy with the next two pages?

Members: Yes.

The Convener: We can agree on those.

Is everybody happy with the registration form?

Members: Yes.

The Convener: That is approved.

Is everybody happy with the "Declaration on Establishment of a Cross Party Group in the Scottish Parliament"?

Mrs Margaret Ewing (Moray) (SNP): Could I have a copy of the papers?

The Convener: Of course.

Mrs Ewing: Thanks, Mike.

The Convener: Shall we approve the declaration?

Members indicated agreement.

Des McNulty: The committee might want to be more explicit about the criteria that it will use to evaluate the purpose of cross-party groups. The rules state that groups

"must be Parliamentary in character"

and that their

"purpose must be of genuine public interest".

Alternatively, we could take a case-law approach and wait and see. It might be a good idea to obtain a list of the cross-party groups that have already been proposed. More detail on the criteria would help people who are considering proposing the establishment of a group.

The Convener: As long as we bear in mind that the committee remains the arbiter in this matter.

I have been passed information that relates to Des's point about access to SPICe. Providing papers and so on may incur costs. We should monitor those costs to determine whether they are reasonable. We will recommend that to the corporate body.

Lobbying

The Convener: We now come to item 2.

Over recent days, there has been much speculation in the press about the activities of political lobbyists. In my capacity as convener of this committee, I have said that I would regard allegations of improper influence over the actions of any member as a very serious matter.

However, I wish to make it clear that no formal complaint has been made to me or this committee about the involvement of any MSP in such activities.

Transcripts from *The Observer* newspaper were delivered to the committee clerk at 9.25 this morning. I have been informed that they were also e-mailed to members. The transcripts will be viewed by members of the committee.

I would like to point out, for the record, that this committee is concerned with the conduct of members in relation to their parliamentary duties. The rules governing members' conduct are set out in the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 and will be amplified in the code of conduct that this committee is presently drafting.

I would also like to make clear that if any relevant allegations are made, and if they are substantiated in any way, this committee will ensure that a thorough and prompt investigation is carried out. The committee has already agreed that a high priority for us will be to consider the issue of lobbying in the context of the Scottish Parliament. We will now start that process.

Tricia Marwick: I confirm that first thing this morning I received from *The Observer* a transcript of the interview that it conducted, as did other members. Convener, when were you first aware that allegations about members of the Scottish

Parliament were to be published in *The Observer* last Sunday?

The Convener: I spoke to you specifically about that at our briefing yesterday. You should consult the clerk at the end of the meeting to refresh your memory.

Tricia Marwick: Although we had an informal meeting yesterday, there are some aspects of the matter that it would be right and proper to discuss at today's meeting. I repeat the question: when were you first aware, convener, that details of the allegations made in *The Observer* would be published?

The Convener: It should come as no surprise to you to hear—I told you this yesterday and said that you could confirm it—that I was informed of the matter on Thursday. I want now to move on.

Tricia Marwick: With respect, these issues are of relevance to the Standards Committee and to the people who believe that the Standards Committee has a responsibility to the Parliament. It is germane to establish who knew about the allegations and when, so that we can move on today to consider how the issues can best be dealt with.

09:45

The Convener: Thank you, Tricia, for that comment. The transcripts have been handed to us. I do not think that it would serve any purpose to comment on them until all of us have had a chance to read through them together. You are on record at the past two Standards Committee meetings as having criticised my openness and accessibility. It is important now that we move on. No purpose is served by remaining on this point. I want to return to our agenda.

Lord James Douglas-Hamilton (Lothians) (Con): Has a letter of complaint been submitted to the committee with the transcript? If so, it would not be unreasonable to have an adjournment to consider it. If a formal complaint has been put before the committee, we should know that. I have received no copy of any formal letter of complaint from *The Observer*.

The Convener: I asked at the informal meeting yesterday whether we could delay the start of this meeting. The committee decided that it wanted to press ahead at 9.30. However, I will take advice from the clerks.

I have been informed that a covering letter was received at 9.25, but I have not seen it and so I do not know what it says.

Lord James Douglas-Hamilton: I have two points. First, it would not be unreasonable for us to adjourn briefly to consider a copy of the letter.

Secondly, I am passing round copies of an article that appeared in *The Express* on Monday, as I do not want to quote it without giving members copies. In the third paragraph, the article quotes a statement that was put out on behalf of the First Minister, who said:

"The First Minister does not believe there has been any breach of the Ministerial Code. But he strongly supports the proposal that the standards committee should investigate any allegations made and should consider whether there is a need for further regulations in the light of such reports."

In view of that call from the First Minister, it seems that we should have sight of a copy of the letter as soon as possible.

The Convener: I am happy to adjourn if members so wish. Perhaps members could indicate whether that is the case.

Mr Ingram: I second that.

Des McNulty: From what you said, convener, I am not clear whether we have received a letter of complaint or not. Has a specific complaint been made, which the Standards Committee has been asked to consider?

The Convener: As I said in my statement, the terms of which were agreed at yesterday's meeting, I have not to date received a complaint from anyone.

Des McNulty: There are two important points to make. First, the procedures adopted by the newspaper in gathering its story—and all I have seen is the story that was written—seem to involve, in the paper's terms, subterfuge; in my terms, deception. The practices are not dissimilar from those of a thief—impersonating somebody to further an action. It is difficult to see how what *The Observer* did could comply with a standard code for journalism, if one existed that operated in the same way as the code in the United States.

Even more serious is the fact that, as members of a fledgling Parliament, all of us are concerned that we should be trying to construct a Parliament that abides by appropriate standards of which people in Scotland can be proud. We are faced with an organisation—a newspaper—that has delivered to us, at 25 minutes past 9, information that it has apparently held for a period, and you cannot tell us whether there is a formal complaint attached to that. The procedures that we want to construct and have in operation are not being served by that kind of action by the newspaper. The way in which it seems to have operated in constructing this story—and, more important, the way we are being asked to respond to its actions—is inappropriate.

If an official complaint that we should deal with is being made, it is incumbent on us to deal with it properly. Through the action of the newspaper, we

are being placed in a position in which we cannot deal with this matter properly. I would be quite happy if committee members wanted to adjourn, to decide whether there is a complaint that we should deal with and to consider how we might deal with it. I would not be happy to consider a matter that I have had no opportunity to examine prior to its discussion.

We are in a difficult position because a newspaper is trying to use the Parliament in an inappropriate way. I resent that strongly. The committee should indicate its resentment of the way in which that newspaper is behaving.

Mr Ingram: I understand where Des is coming from on this issue. However, as James has pointed out, the First Minister has called for us to investigate this matter and I understand that we have received other letters from people who are involved. It would be remiss of us not to consider this matter today. We must do so, given the sensitivity of the matter.

The Convener: I agree. According to the convention that we have adopted, we must move into private session if any named MSPs are to the fore. We do not know what is in here, and I suggest that—if the committee agrees—we move into private session for a few minutes, so that we can investigate this.

Des McNulty: I am not aware of any correspondence from the First Minister. Lord James has provided us with a newspaper article. By your account, convener, we have received a letter at 25 minutes past 9, together with some linked information. That is the position that we are in. Is that correct?

The Convener: That is correct. In the course of these activities, I have only ever received one letter from an MSP, to which the committee responded yesterday. That is all that I have received, apart from this package that the clerk received at 9.25 this morning.

Tricia Marwick: I am grateful to Lord James for drawing our attention to the First Minister's statement in the newspaper. The convener has also confirmed that we received a letter from one of the people who were named in *The Observer*. That person has written to request that the Standards Committee investigate the matter. It would be remiss of the committee not to accept his urgings that we investigate the allegations and the transcripts that we have before us.

The Convener: I want to make one thing absolutely clear: I feel that we are duty bound to look into, and get to the bottom of, any complaint that we receive. The question remains: have we received a complaint? That is why I am asking the committee whether we can move into private session. According to the convention that we have

adopted, if anything in here names a particular MSP we must move into private session. I think that it is now appropriate to do so.

Lord James Douglas-Hamilton: Is it a matter of fact that a letter has been delivered this morning?

The Convener: I am advised that the clerk received the transcripts and a covering letter.

Lord James Douglas-Hamilton: If that letter mentions a particular individual, or individuals, the case for moving into private session is advanced. I suggest that it would not be unreasonable for us to adjourn for a short time, to consider the contents of that letter.

The Convener: I would be happy to do that.

Question, That the meeting be now adjourned, put and agreed to.—[Lord James Douglas-Hamilton.]

Meeting adjourned at 09:54.

10:49

On resuming—

The Convener: Welcome back to the full open session of the meeting. I remind everybody of our reason for our going into private session. It is a convention of the Standards Committee that when any individual MSP is named in any information that comes before us, we discuss the matter in private.

We are still discussing item 2. We have decided to meet on Tuesday in private for careful consideration of the matters that have been placed before us, with a view to deciding on the terms of an investigation.

That concludes our discussion of item 2. We now move to item 3.

Code of Conduct

The Convener: Members of the committee will have received all the relevant papers. The committee is invited to consider the attached drafts of the introduction and key principles of the code of conduct for members and to agree texts.

Remembering that we shall come back to this when the whole code of conduct is written, I want to go through the introduction and key principles. Do members want to do it page by page?

Members indicated agreement.

The Convener: On the first page of the introduction, we can see the amendments that have been made. Are there any points that members want to raise? If not, let us move on to the second page. Is everybody happy with the

introduction as amended?

Members *indicated agreement.*

The Convener: We have accepted the introduction to the code of conduct.

We now move on to the key principles of the code of conduct. The first page deals with public duty and duty as a representative.

Mr Ingram: Is it necessary to include the oath of allegiance in a code of conduct? We have already taken the oath, so why are we putting it in the code of conduct? What we are really talking about is the conduct and behaviour of MSPs; we are dealing with an on-going code of conduct, so I do not see why the oath should be included?

The Convener: There was genuine disagreement about that.

Karen Gillon (Clydesdale) (Lab): We have had a long and full discussion on the wording of that point. It is there and it is a statement of fact. At the previous meeting, members agreed that it is appropriate for it to remain in the code of conduct. We reached agreement on that at our previous meeting, so I think that we should move on, convener.

The Convener: Your objections were noted, Adam and Tricia.

Mr Ingram: Yes.

The Convener: We move on to duty as a representative, and then to the headings of selflessness, integrity and—

Karen Gillon: Let me first read the paragraph on duty as a representative, as the wording has changed.

The Convener: Are we happy to proceed?

Members *indicated agreement.*

The Convener: Karen, are you happy to proceed?

Karen Gillon: Yes.

The Convener: The next page includes the headings of selflessness, integrity, honesty, and accountability and openness.

Des McNulty: We have always had the problem with overlap, but perhaps good things bear repetition.

The Convener: I do not want us to strike out honesty, accountability or openness.

Des McNulty: We should reorganise the accountability and openness section slightly. The opening sentence should be the one that states:

“Members are accountable for their decisions and actions to the Scottish people”.

That should be sentence one.

Sentence two should be:

“They have a duty to consider issues on their merits, taking account of the views of others.”

Sentence three should be that they also have a duty to be as open as possible about those decisions and actions.

Those are the three elements and that would be consistent with the language that we are using.

The Convener: I believe that that third sentence was struck out, do you want it back in?

Karen Gillon: This is the second part of the second sentence.

The Convener: Are you saying that we should reverse those two points?

Des McNulty: I am suggesting that we start with accountability and go on to a duty to consider issues on their merits, taking account of the views of others. The third sentence should be that they also have a duty to be as open as possible about those decisions and actions. That would remove the part that states that members are responsible for the decisions that they take, which is superfluous as it is obvious.

The Convener: Okay, we will do that. We will now move on to leadership.

Des McNulty: The only point that I will make on leadership is that we have consistently changed everything else to say that members have a duty, so to be consistent we should say that members have a duty to promote and support.

The Convener: That is a fair point. We will do that.

Thank you very much. If members could remain behind for some housekeeping matters, we will close the meeting at this point.

Meeting closed at 10:57.

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