

STANDARDS COMMITTEE

Tuesday 7 December 1999
(*Afternoon*)

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STANDARDS COMMITTEE

14th Meeting

CONVENER :

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

COMMITTEE MEMBERS :

Lord James Douglas-Hamilton (Lothians) (Con)

*Patricia Ferguson (Glasgow Maryhill) (Lab)

*Karen Gillon (Clydesdale) (Lab)

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

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

*Des McNulty (Clydebank and Milngavie) (Lab)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED :

John Young (West of Scotland) (Con)

COMMITTEE CLERK :

Vanessa Glynn

ASSISTANT CLERK :

Alastair Goudie

Scottish Parliament

Standards Committee

Tuesday 7 December 1999

(Afternoon)

[THE CONVENER *opened the meeting at 14:31*]

The Convener (Mr Mike Rumbles): Good afternoon and welcome to the 14th meeting of the Standards Committee. I welcome John Young to the meeting.

Today we will continue our work on the draft code of conduct with consideration of two of the weightiest sections of the text. They focus on an explanation of the requirements for registration and declaration of interests as set out in the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999.

Tricia Marwick (Mid Scotland and Fife) (SNP): Convener, we are discussing a code of conduct for MSPs. A ministerial code exists and the committee will make recommendations on it, with particular regard to lobbying. However, the events of the past few days show that there is a deficit of accountability regarding the political advisers appointed by ministers. Will it be in order for the Standards Committee to make recommendations to ministers on the role and conduct of special advisers?

The Convener: We can legitimately consider that matter at a later date. Today, we are focusing specifically on the code of conduct for MSPs.

John Young (West of Scotland) (Con): Does that mean that, at the moment, there is no code of conduct of the category that Trish mentioned?

The Convener: Not as far as I am aware.

John Young: In view of the area in which they work, I would have thought that it was essential for all staff in the Parliament to have a code of conduct. Their code may be slightly different from ours, but the concept would be broadly similar. They are privy to confidential information.

Des McNulty (Clydebank and Milngavie) (Lab): My understanding is that special advisers are appointed as civil servants and, therefore, would be subject to a civil service code of conduct. Perhaps that could be clarified if we send a letter to the senior civil servant asking whether that is the case. If it is, it is not specifically a matter for the Standards Committee. As we have discussed before, the committee deals with the conduct of MSPs.

Tricia Marwick: Des's suggestion is good. We

need to establish whether special advisers are subject to civil service rules. As I said, over the past wee while, there has seemed to be a deficit of accountability. We need to find out to whom—exactly—special advisers are accountable. If they are not accountable to the First Minister or to those who appoint them, are they accountable under a civil service code? For the sake of the Parliament, we need to establish who is accountable to whom for their actions.

The Convener: I will endeavour to find out whether those individuals are subject to the civil service code. If so, it will be up to the civil service to take it from there; if not, we can come back to it at a later date.

John Young: As I understand it, the title of this committee is the Scottish Parliament Standards Committee. Not only MSPs are in the Scottish Parliament; they may be the elected members, but there are other staff. I wonder whether the Standards Committee should have an extension to its powers. Someone, somewhere, must have those powers, and I would have thought that the Standards Committee was the logical choice.

The Convener: The most important thing is first to find out the facts. I will report back to the committee as soon as we find out what the situation of those individuals is, and what code of conduct applies to them.

Tricia Marwick: Thank you, convener.

Code of Conduct

The Convener: Members have received briefing notes that make clear that the proposed text for the two sections that we are considering this afternoon is largely an explanation of the legal requirements on members. That is a very important point, because our scope to amend the substance of what is proposed may be limited.

The briefing notes—which members have all had a chance to look at—highlight possible additional requirements or guidance, and we may wish to include them in the code. However, I remind members that our primary aim is to issue speedy guidance to members, and not to spend a lot of time creating new rules or debating the need for them. That is the most important point—we must act with speed. As our experience of the working of the Parliament increases, we can come back to the issue, but it is important to get the code up and running. I want to start with the section on registration of interests—section 3—and work through it page by page.

John Young: The final paragraph says that

“the legal advice is that pensions do not fall within any of the registrable categories of the Order.”

That surprises me and I wonder about it. When I was a member of Glasgow City Council, it was proposed that I sit on the licensing board. However, because I had declared that I was the recipient of a company pension from Allied-Lyons—which, of course, has extensive interests in the drinks industry—I was told that I would not be allowed to sit on the licensing board. I would have thought that certain pensions should be declared—I have declared mine in the Parliament.

The Convener: There is no legal requirement to register pensions. However, I have done so—under the category of miscellaneous—because I think that it is important to do so.

John Young: It is.

The Convener: I agree with you.

John Young: I wonder whether, on this occasion, the lawyers know what they are talking about—well, I wonder that on many occasions.

The Convener: The issue has been looked at extremely carefully and the legal advice is that it is not applicable. I gave my own example because I agree, John, that it is important.

John Young: This is a hypothetical case, but what if Allied Domecq—as it now calls itself—wanted something pushed through the Scottish Parliament. I could support its proposal and vote for it, despite receiving money from it monthly. I think that that is totally wrong.

The Convener: When we produce a new act, we will have the opportunity to reconsider the issue. At the moment, we are working under the law that has been laid down. The law is about employment, and pensions are regarded as payments to individuals who have been employed.

Tricia Marwick: That is an important point—we are dealing with the current act and the current requirements. The committee should take the advice that it has received from the lawyers, who have said that there is no need to register pensions. However, if people wish to do so voluntarily, they may do so. The draft code of conduct that we have in front of us reflects that. People must judge whether they would be influenced—or be seen to be influenced—by a pension or whatever. They also have a responsibility, outwith the legal terms, to register what might influence them in the carrying out of their duties. However, there is no legal requirement and that should be reflected in the code of conduct.

John Young: I do not want to labour the point, convener, but it seems ridiculous. As I understand it, if I was on the Local Government Committee and was invited to visit a local authority, I would have to declare a sandwich if I received one, but I would not have to declare a pension. That is

nonsense. I do not know whether we have a voluntary code on sandwiches.

The Convener: Well, John, I am fairly sure that you would not have to declare a sandwich. There is a £20 minimum for gifts from local government.

John Young: Ask Trish Godman, MSP.

The Convener: I would like to move on from that point. The rules are fairly straightforward. We have taken on board the point that, if the code needs to be changed in the future, we will have the opportunity to change it. However, we must act within the law and with the act that is laid down.

John Young: I think that the lawyers are wrong on the pensions issue. I still say that.

The Convener: Thank you for your contribution, John.

Do members have any other comments on page 1? No. Page 2?

Mr Adam Ingram (South of Scotland) (SNP): It is worth pointing out that, in the second paragraph, the rules are more exacting for the Scottish Parliament than for Westminster members—for example, in the possible use of the law and criminal action against people. We have made a significant advance on the Westminster model; that should be widely recognised in Scotland.

The Convener: It is true that the code of conduct that we are drafting is very strict. By strict, I mean that it is quite clear to members.

Do members have any other points on page 2?

Des McNulty: Is there some sort of mechanism for when an interest ceases—a process by which that interest need no longer be specified in the register? Might we consider a lapse period, after which an interest would no longer have to be declared?

The Convener: I thought that that was a legal requirement, but it is not. I am advised that it is difficult to make that judgment. Although the interest technically ends—and members might feel that it should therefore be removed from the register—there may be a difficulty in deciding whether a member has nevertheless been influenced by it.

Des McNulty: The register could be published annually.

The Convener: The point of the register is that it is live. It is not extant for 365 days, after which we move on to another one.

Des McNulty: You have jumped in ahead of me, convener.

The Convener: I am sorry, Des.

Des McNulty: You are right: there should be an

on-going register. However, did not we also agree that we would publish it annually? We set a date for its publication.

The Convener: A date was set for its publication, but it is on-going. Although we wanted to do that, the Scottish Parliamentary Corporate Body decided that it would not proceed with that.

Des McNulty: The danger is that we might end up with a register that—although the intention is for it to be live—contains a series of interests that have ceased. I wonder whether the way in which to deal with that would be to have an annual date at which the register is published or formalised. It would then become on-going, but what was in the register before 30 March, or whenever, would be recorded as a member's interest of the previous year. People would be able to see, over a two, three or four-year period, how a member's interests had altered, without our retaining all those interests in the live register.

This is basically an administrative point. A live register with lots of defunct registrations could become unwieldy. There may be an alternative that would offer transparency but would not entail unnecessary time having to be spent in putting in entries.

14:45

Mr Ingram: That is something that we might look at after a year or two. I do not know how frequently members will change, or cease to have, interests—I suspect not a lot. After four years the slate will be wiped clean anyway—when, I hope, we all come back into the Parliament. Well, I will not say that I hope that it will be us all—

John Young: Why is he looking at me?

Mr Ingram: After that, we would have to go through the whole process again. I think that that is what we want; we can revisit it if there are problems.

John Young: There is a simple way of doing this. If something changes on a member's declaration of interests, the member should go to those who administer the register and say that he or she is no longer with that company so that a notation can be made to that effect.

The Convener: That is the system, John.

John Young: That is the system now?

The Convener: Yes. The document is live. As there have been relatively few amendments after several months, we might be wise to see how it goes and to review the matter next year. Are you happy with that?

Des McNulty: I would be happy to see how it goes, but we should consider an annual cut-off

point for the register. I will take Vanessa Glynn's advice on whether that will make it easier to administer. I am concerned about whether it might become unwieldy to operate.

The Convener: We will look into that. Are there any other points on page 2 or page 3?

Mr Ingram: In other places, there have been debates on the registration of interests of family members. Although we may not wish to stipulate that, perhaps we should give members a clear steer on it. I know that there is a problem with the wider family, but there should be guidance to members on the interests of a spouse or cohabitee and of children.

The Convener: That is a wide issue.

Tricia Marwick: As I understand it, at the end of the financial year—at the end of March—the names of members' staff will be published. Who we are all employing will be clear to everybody. I might be wrong—perhaps we could check that.

The Convener: It is my understanding that the names of MSPs' employees will be published.

Tricia Marwick: Exactly. So if someone is employing their son, daughter, wife or whoever, it will be in the public domain anyway.

The Convener: Adam Ingram is suggesting something wider than that.

Mr Ingram: If members are discussing a matter in which a close relative, such as their wife or husband, is heavily involved, they should register that interest.

Tricia Marwick: I am sorry, but I am not getting that. Heavily involved? Where?

Mr Ingram: The rules for members mean that we have to register particular interests. This is perhaps not the best example, but my wife is a teacher. If one's wife is involved in something relevant, that ought to be registered. The member could be arguing on behalf of their spouse's interests because they are close to that person.

Tricia Marwick: We have to achieve a balance between the need for public disclosure and the need for privacy. We cannot legislate on that in all circumstances—

Mr Ingram: Let us say, for example, that a member's spouse has a significant position on a public body to which the Parliament is disbursing funds. If we are having a debate on that public body in the chamber, should not the member—if they wish to make a contribution—declare their interest?

Des McNulty: There are real difficulties with that. The rules were initially envisaged at a time when only one person in the family was

economically active. We are now in a changed society, in which different people have careers. If members are constantly having to declare their spouse's interests and say where they work, that places an undue burden on them. The only interests of real importance are financial ones.

Somebody you know might work in an area on which, as an elected member, you make a speech or in which you take an interest. However, you might do so because constituents wish you to or because it happens to be something in which you are interested. Whether you are related to somebody does not matter; we have to safeguard against people presuming that we are acting in pursuit of the financial interests of a family member. We should not stray into territory beyond that, or we will put people at a significant disadvantage.

The Convener: Adam Ingram has raised an interesting and legitimate point. There are arguments on both sides. At the beginning of the meeting, I said that it was important that we worked through the material in front of us, rather than produce any new material. This is a live document—once we have published it and reported on it, we can come back and address those issues.

In the meantime, what is open to members is what I have done in my own case. My wife is self-employed and I have registered her self-employment and her business interests voluntarily, under the miscellaneous entry on the members' register of interests. It is open to members to do that voluntarily, if they wish.

I understand the point that Des McNulty is making; it is a valid one and it is something that we can discuss in future. I also understand the point about privacy. We perhaps need to come back to that at a future date.

John Young: We are dealing with a member's declaration of interest. What the member's spouse or children do is an entirely different matter. We might as well legislate for them—how far does this go? The onus is with the member. If the members have doubts, they can, as has been said, bring the matter forward. We should not deal with it here.

The Convener: That is the position that we are in at the moment. If Adam Ingram wishes to raise it in future, that would be perfectly legitimate.

Let us move on to page 4 of the draft. Does anyone want to comment on anything on that page?

Are there any comments on page 5? Are there any comments on page 6?

This is good going. Are there any comments on page 7?

Tricia Marwick: Stop! [*Laughter.*] On page 6, the issue is raised of when members register interests. Because the draft code is a live document, we will be registering things as they come up, but I am not sure that we have given enough significance in the code to timing. Perhaps we could highlight it a wee bit more. A declaration is not a one-off action. It is not only about lodging an initial statement; it is on-going. We need a separate paragraph to highlight that to members. It is not true that they do not have to register anything else for the four years of a session because they have registered their interests in the first instance. We need to stretch that point out a wee bit more.

The Convener: That is a good point, Tricia. We will get the clerks to draft something to that effect to be included in the document.

Any comments on page 7? [*Interruption.*] I have just been reminded that the bottom of page 7 and the top of page 8 explain the topic that we have discussed—ceasing to have an interest.

Are there any comments on page 8? Any comments on page 9? Page 10?

Mr Ingram: One paragraph begins:

"If a member provides services as a member of the Parliament".

As a matter of curiosity, are there any members who come into this category?

The Convener: My information from the "Register of Members' Interests" is that there are none that we know of.

Tricia Marwick: I do not understand what kind of services we could give

"as a member of the Parliament".

Why would we, as members of the Parliament, have clients? Why is that sentence included? I do not understand.

Des McNulty: I do not think that it is right. We should excise that part.

The Convener: I think that we are all agreed on that.

Mr Ingram: Is it a question of when a member of the Parliament is employed as an adviser on what impact the Parliament will have on such-and-such a business?

The Convener: Yes, essentially, that is what it is. To be perfectly honest, that part of the text reflects the system in Westminster. I agree with those members who have said that we should remove it. I am not terribly happy with it myself.

Mr Ingram: I do not think that we should remove it. It requires the member to publish the names of their clients.

Tricia Marwick: We should say that no member should be providing services, as a member of the Parliament, to anybody.

Mr Ingram: I do not think that we should delete it.

Des McNulty: My point is that we have no licence for that kind of thing. We try to make it clear in what we do that members should not be seen to be making money, as it were, by selling services as a member of the Parliament.

The Convener: We could take that out and make a statement to that effect at tomorrow morning's meeting. That is agreed.

Are there any comments on pages 11 or 12? There is another reference to that point, which we will also need to remove.

15:00

Mr Ingram: There is a reference at the bottom of page 12 to contributions to election expenses from a person. It says that

"a person' means a single individual or legal person and includes a group of companies".

What about other organisations?

The Convener: I think that we are stuck with that wording because it is from the order. The text is the explanation, but that wording is part of the order. At this stage, we are looking at the text.

Are there any comments on pages 13 or 14? The third paragraph of page 14 may interest Adam Ingram. It says:

"The definition of 'person' is wide."

Des McNulty: Paragraph 2 on page 14 says:

"A one-off donation . . . does not fall to be registered as sponsorship".

I wonder whether we should consider a financial limit. Could we take advice on that?

The Convener: We certainly could. Contributions that do not continue over time would not constitute sponsorship.

Mr Ingram: They would come under the category of gifts, and gifts are limited to £250.

Des McNulty: If that is the case, we need to tighten up that wording to refer back to the paragraph on gifts.

The Convener: Thank you for that point.

John Young: How would one know if the gift exceeded £250? The document mentions

"a gift of heritable or moveable property; or . . . a gift of a benefit in kind, the value of which, at the date it was received by the member or his spouse or cohabitee or the company or partnership, as the case may be, exceeds £250."

If somebody passed on a gift and the member thought that it was worth £241 but was not sure, would that member be asked whether its value was greater than £250?

The Convener: This code of conduct is guidance to members. Members must use their own judgment.

John Young: It is an awfully long code of conduct. I have seen a number in the past, but none was as long as this.

The Convener: The important thing about this code of conduct is that we have a statutory system. As you can see, the statutory information is shown in the boxes on the document; we have added explanations so that members can be absolutely clear about what they can and cannot do.

John Young: If a member received a car, they would know that it was worth more than £250. However, if they were to receive a watch, they might not be sure of its value. That is a hypothetical example, but it is worth considering.

The Convener: Throughout the code of conduct we suggest that members should err on the side of caution and approach the whole subject carefully. For example, we talked about what constituted a registrable interest. If in doubt, I would suggest that an interest should be registered voluntarily; the same applies to a gift. If an MSP accepts a gift that may be worth anywhere near £250, it is up to them to use their judgment. The whole point is to have transparency and openness. These are clear guidelines for MSPs, so the onus is on MSPs.

John Young: An MSP should not accept a gift. We are talking about a member or his spouse or cohabitee or a company in which the member has a controlling interest.

The Convener: They are prohibited from receiving gifts worth more than £250.

John Young: That is what I would have thought.

The Convener: I beg your pardon. The legal requirement is for members to register such gifts.

John Young: So can one only register a gift if it is more than £250.

The Convener: No, members can register anything they want to. They are not required to register a gift if it is worth less than £250. That is the statutory order.

John Young: I am only talking about the value.

The Convener: I am glad that you are here, John, because this is a test case. All MSPs must use their judgment.

John Young: I have received no gifts.

Des McNulty: Can I be clear about this? Let us suppose that my parents give me a gift of £500. Am I obliged to declare that?

The Convener: Yes, indeed you are.

Des McNulty: If my wife's parents give her £500, am I obliged to declare that?

The Convener: Yes. When we are in a position to write legislation, I am sure that we will revisit this.

Tricia Marwick: So when I celebrate my silver wedding anniversary next year and receive lots of gifts worth more than £250, I will have to declare them all?

The Convener: Members should be careful after Christmas.

John Young: It is ridiculous that, if my three-and-a-half-year old granddaughter gives me a Donald Duck that I think is worth more than £250, I will have to declare it.

The Convener: That is the law.

John Young: As has been said more than once, the law is an ass.

The Convener: The Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 has been given to us by Westminster and we must act within it. Today we are explaining the rules. If we feel that there are anomalies, we can revisit this matter when we produce legislation.

Karen Gillon (Clydesdale) (Lab): My husband intends to give me a ring for my Christmas. I am anticipating that it will be worth more than £250. Does it therefore have to be registered?

The Convener: What a good excuse for your husband.

John Young: Ask him for a receipt. This will cause domestic problems in some places.

The Convener: Joking apart, Karen, that is a very good point. We will check the legal situation for gifts between spouses.

Karen Gillon: I do not want you to know if he is miserable and I do not get anything worth more than £250. If I have nothing to declare after Christmas, I will be a sad person.

Tricia Marwick: It would be worse if he told you that it cost more than £250, and when you got it valued, it turned out to be worth only £100.

Karen Gillon: Exactly.

The Convener: I call the committee to order. We have discussed pages 15 and 16, which are about gifts.

Are there any comments on page 17?

Des McNulty: I think that we should say on page 16 that the legal requirement is as it is because we cannot do anything else. It should say that members should make particular efforts to register anything that could be seen to influence their activities. That is the direction in which we should be going, as what we have is inappropriate. We should consider the wording and highlight what the intent is. To be blunt, we should alter the legal text so that it is more up to date.

The Convener: Yes, we will do that, Des. It will be in the final draft.

Are there any comments about page 17?

Karen Gillon: I apologise for being late, convener.

Where in the document are members' staff covered? When I worked for an MP at Westminster, I was required to register my interests, but there is a big gap in the document before us. In addition to spouses, staff could be given gifts or taken to events. We should consider that issue, as it is missing from this document.

The Convener: That is a valid point. Adam Ingram raised a similar issue about spouses, cohabitees and children—let us call them immediate family.

However, to return to what I said at the beginning, which you missed, Karen, our role is to try to explain this statutory instrument. If members wish to register other interests, there is a "Miscellaneous" column in which to do so. I have used that column myself to register anything that I think should be registered. My point is that, once we get the code established and published, we can come back to examine this issue.

Karen Gillon: My employer did not register my interests. I had to complete a separate register of interests as an employee of an MP. We need to consider that.

The Convener: Karen Gillon and Adam Ingram raise important issues that we need to consider. Perhaps there are loopholes or, rather, other areas that have an important impact upon us. We should revisit those issues next year, once we have completed our work on the code of conduct.

Tricia Marwick: Going through this document is an extremely useful exercise as there are a number of points that have arisen, including the £250 limit on gifts, the point about gifts that are exchanged between member and spouse and the issue about staff that Karen raised. A lot of areas are coming to light now that perhaps were not appreciated by those who drew up the legislation and the order. It is easy to do things in a vacuum, but we are a working Parliament and we must ensure that we have guidance and codes in place that allow us to carry out our work. That is

important.

I ask the clerks to take note of these points, so that, when the code of conduct is sent to members, we can consider how to improve the situation at the turn of the year, to ensure that we are allowed to do our job as we need to do it. At the same time, we should build in safeguards so that we are accountable, open and transparent in a way that does not limit us in carrying out our duties.

Karen Gillon: Will the clerks get the details of the staff register of interests at Westminster? It is quite a simple process and we do not need to reinvent the wheel. We should tackle this issue quite quickly, as we already employ staff.

The Convener: That issue has been taken on board and the clerks will progress it.

Are there any comments about page 17? Page 18? Page 19? Page 20? Page 21?

John Young: We were talking about registration of share capital and so on, under category 8 on page 21, where a percentage is mentioned. Would it not be wiser and safer for a member who holds shares to register those shares, no matter the quantity or value? That might save a lot of difficulties for members. While most members probably do not hold shares of the volume referred to in the document, a member who holds only 10 shares should be able to register them.

The Convener: That is what we recommend in the code.

On page 22 it says:

"Members who think their shareholding may have reached a **market value** of over the threshold or who have any other shareholdings which are not registrable may, in the spirit of openness and transparency wish, to register them in the 'Miscellaneous' category."

John Young: That covers it. Thank you.

The Convener: Do members want to make any other points on shares?

Des McNulty: At the bottom of page 18 there is a definition of heritable property. We should keep referring to heritable property as defined there, or we may trip up ourselves and other people.

15:15

The Convener: We now move to section 4, which is the declaration of interests. I will go through that page by page, as I did with the section on registration. Members may intervene if they have any comments.

Are there any comments on page 1? Page 2? Page 3? Page 4?

Des McNulty: I have a question about page 2.

The Convener: I am always going too fast.

Des McNulty: Yes, I think that you need to go a little more slowly. On page 2 the code states

"that a member must make an oral declaration in proceedings of the Parliament, before otherwise taking part in those proceedings".

Taking part is defined as anything other than voting.

The Convener: That is right.

Des McNulty: It might be that someone wanted to intervene in the debate before they were called to speak.

The Convener: They must make their declaration at that point.

Des McNulty: I could imagine circumstances in which it might be worth getting members to make a written declaration to the Presiding Officer before the start of a meeting if they anticipate a problem, so that the Presiding Officer is aware which members will want to make an oral declaration if they are called. That would serve both to alert the Presiding Officer that the debate may raise particular issues for a member and to ensure that, if that member is called, they make their declaration.

Karen Gillon: This is a difficult issue, because things can happen very quickly in debates and a member who had no intention of speaking may want to make a quick point. Before doing so, they will have to make a five-minute declaration.

The Convener: It is not a five-minute declaration.

Karen Gillon: I, for example, have registered my membership of Unison, as that affects anything to do with public services. In the register, mine is quite a long declaration. Are you saying that in the situation that we are describing, all that I would have to do is say that I have a registered interest in the matter?

The Convener: All that you will have to do is say that you have a registered interest. The form of words is left to you. The intention is to alert other MSPs and the wider public who are watching and listening that you have some interest in this issue. They can then take that into account when weighing up what you say.

John Young: It may mean that you have some specialised knowledge that you can contribute to the debate.

The Convener: That is absolutely right. It could reinforce the argument that you are making. Members should not assume that the oral declaration is meant to be a regurgitation of what they have written down in their registration of interests.

Karen Gillon: I do not think that that is clear to people.

The Convener: We should make it clear. That is a good point.

Karen Gillon: I do not think that it is clear in the section that we are discussing. We need to tighten that up.

The Convener: We will make it clear.

Karen Gillon: We will make ourselves look stupid if we do not.

The Convener: Brief declarations are all that is required. We will emphasise that in the text.

Des McNulty: We should also emphasise that, if members indicate that they want to speak in a debate, they should declare their interest to the Presiding Officer.

The Convener: We are putting another onus on members, are we not?

Des McNulty: It could be made advisory. Patricia Ferguson is shaking her head. Perhaps that is not appropriate.

The Convener: Patricia, you are a Deputy Presiding Officer.

Patricia Ferguson (Glasgow Maryhill) (Lab): Perhaps I should declare an interest. I do not think that such a step would be necessary. Members declare interests fairly often in the chamber, at the beginning of their speech. However, I was not sure whether they were required to do that if they made an intervention in a debate. That might be worth highlighting to Presiding Officers and members.

I am not sure that the declaration needs to be in written form. It is not to the Presiding Officer that members are declaring an interest, but to the Parliament as a whole. Therefore, an interest should be declared orally, to the Parliament, rather than in writing, to the Presiding Officer.

The Convener: We take that on board, and will bring that point about interventions and declarations to the attention of the Presiding Officer.

We will proceed more slowly. Let us consider page 3.

Des McNulty: The new text—the darker text at the top of the page—lacks clarity. The test is this:

“would having the interest prejudice or give the appearance of prejudicing the member’s ability to participate in a disinterested manner in the proceedings of the Parliament in relation to the particular matter?”

I think that we could find better wording than that.

The Convener: We will revisit the structure of that sentence.

Tricia Marwick: May we proceed to the bottom of page 3 and the top of page 4? I find the statement strange that, if a member has been employed previously by someone and still has

“a strong commitment to the aims of that organisation . . . There could, therefore, be a case for declaration of interest”.

Can somebody explain that to me?

The Convener: I shall give an example. If a member is in a position of responsibility, who has worked in an organisation before from which they have resigned, there is a possibility that, in the future, they might return to that company. There is a need to ensure, in the interests of transparency and openness, that that interest is registered.

Tricia Marwick: That is not clear in the document. I previously worked for Shelter, the housing charity. I have a strong commitment—as all members know—to housing and homelessness issues. Do you seriously expect me to preface every speech with the statement that I previously worked for Shelter, that I am now an MSP and that, in the future, I might or might not work with Shelter or some other organisation that is concerned with housing or homelessness? That is how it reads.

The Convener: Article 5(1) of the order, in the boxed text, refers to

“Where a member has a registrable interest in respect of which he or she has lodged a statement . . . which would prejudice or give the appearance of prejudicing his ability”—

or her ability—

“to participate in a disinterested manner in proceedings of the Parliament”.

Tricia Marwick: It is a chicken-and-egg situation. I remember watching “Cathy Come Home” when I was a young child. I have been interested in homelessness since then. I was interested in Shelter as a charity, and then I went to work for it. I am still interested in homelessness and housing issues. However, my interest in those issues did not stem from my previous employment.

The Convener: I return to the point that you must use your judgment in that case.

Des McNulty: I think that in the paragraph to which Tricia Marwick refers, and in the previous one, we are trying to anticipate cases. It might be preferable to make the general point that is in the middle paragraph on page 3, to include the first sentence of the fourth paragraph and to avoid using the examples. Each person’s case will be different. We should say that if members are in doubt, they should seek advice from the clerk to the Standards Committee. That is the way to handle it.

Trying to get case law down into a text of this kind is an inappropriate way in which to proceed.

John Young: That is what worries me. The Gettysburg address had only two pages. This draft code has about 10 or 12 times that. Most members know what they should be declaring. There might be isolated difficulties, but to have all those pages is beyond belief.

Karen Gillon: Without being impertinent, I believe that the experience of this committee is that most members did not know what should be registered. That is why we had to use the whips and party meetings to tell members what should be registered.

If someone has been a local councillor, they are likely to know something about a register of interests. If someone is coming into politics for the first time, matters that they may think have no influence might require to be registered. If the previous case that the committee investigated told us anything, it was that, in the public perception, people's previous employment is perceived to have an influence on them. That was an important example.

We must consider the wording carefully, so that we are clear and do not confuse people. We also do not want to give the impression that politicians should exist in a vacuum and have no experience of the real world. That is certainly not what I would like to see. People's life and work experience is valuable to this Parliament. It will be the difference between this Parliament and the other place, as we like to call it now.

In this Parliament, we have a wide range of life experience, employment experience and knowledge. We should see that as an advantage rather than as a disadvantage. The register and declaration of interests should be a way of showing that, as well as ensuring that people are not brought before the committee for any undue reason.

John Young: Nevertheless, it could be done with a degree of brevity.

The Convener: Some good points have been made. It is important that the code of conduct is not just a regurgitation of what the statutory instrument says. We must give clear and unambiguous guidance to members. That is what the code does.

If members are happy with Des McNulty's suggestion, we can remove some of the examples but keep the principles.

Members indicated agreement.

The Convener: I will move on to pages 4 and 5.

I refer to our previous conversation. Paragraph 4.4 states how oral declarations should be made:

"Members are required to make an oral statement declaring the nature of their registrable interest. A declaration should be brief but sufficiently informative".

Do members have any points on pages 6, 7, 8 or 9 or on the chart for information? Are there any final points?

Des McNulty: We should highlight—put in bold text—paragraph 4.5 on page 9 about the responsibility of individual members, particularly the part that states:

"When in doubt, members may seek the advice of the clerk to the Standards Committee."

That section needs to be flagged up. It is probably the most important bit in the document. We must make sure that it is well highlighted.

John Young: That section is the key part of the document.

15:30

Karen Gillon: When we set out on this process, we wanted to ensure that once the code was with members and was in the public domain, ignorance would no longer be an excuse. That is why we have gone into as much detail as we have. We do not want to get into a situation, as happened at Westminster, where members can say that they did not know about the rules. No one should be in any doubt about what is expected of them. If members fail to live up to expectations, this committee will determine the action that will be taken against them.

The Convener: That leads on from John Young's point about brevity. Karen has hit the nail on the head—this is the guide for MSPs, and there are no excuses. That must be quite clear and unambiguous. If any doubt remains in the minds of members, they should consult the clerk to the Standards Committee in the first instance.

John Young: Even at Westminster—and without naming members—the MPs who asked for money for asking questions knew that what they were doing was totally wrong and improper. There is no question about that. I am not suggesting that the same will happen here, but members would know that that was wrong. We could illustrate all the points in five pages. Nevertheless, I agree with Des that if members are in doubt, they should ask the clerk.

Tricia Marwick: Members should look at who they will have to face on the Standards Committee if they ever come before us.

The Convener: I will ask the clerks to take on board all the issues that we have highlighted and to incorporate the changes. Karen Gillon and Adam Ingram made at least a couple of important points about additions that could be made to the

code in future, once we come to produce our own legislation. We will consider them at the time. Members should remember that the legislation was passed down to us from Westminster and that what we are producing is an explanation of those rules.

If there are no further points, I will close the meeting. We will reconvene tomorrow morning to complete discussion of the next sections of the code.

Meeting closed at 15:32.

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