

STANDARDS COMMITTEE

Wednesday 31 May 2000
(*Morning*)

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STANDARDS COMMITTEE 9th Meeting 2000, Session 1

CONVENER

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

DEPUTY CONVENER

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

COMMITTEE MEMBERS

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

*Patricia Ferguson (Glasgow Maryhill) (Lab)

*Karen Gillon (Clydesdale) (Lab)

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

*Des McNulty (Clydebank and Milngavie) (Lab)

*attended

HEAD OF CHAMBER OFFICE

Bill Thomson

SENIOR ASSISTANT CLERK

Jim Johnston

LOCATION

Committee Room 3

Scottish Parliament

Standards Committee

Wednesday 31 May 2000

(Morning)

[THE CONVENER *opened the meeting at 09:35*]

The Convener (Mr Mike Rumbles): Welcome to the ninth meeting this year of the Standards Committee. I particularly welcome Dr Sam Jones, who will be our new clerk team leader. She has come to us from the Northern Ireland Office and will sit in on today's meeting to get an idea of what she has let herself in for. I suggest that we deal with agenda item 5, the consideration of a report on the register of interests of members' staff, in private, as it is a draft report. Are we agreed to do that?

Members indicated agreement.

Standards Adviser

The Convener: Item 1 is consideration of a specification for our temporary standards adviser, whom we agreed to appoint at our previous meeting. Once we have agreed a specification, the clerk will submit a paper to the Scottish Parliamentary Corporate Body. On the assumption that the SPCB approves the proposal, the clerk, in consultation with the Scottish Parliament's information centre, will draw up a list of potential advisers, which we can discuss at the next suitable meeting of the committee.

Des McNulty (Clydebank and Milngavie) (Lab): The commissioner will probably have to be a member of the staff of the Parliament. Will they be a committee appointee?

The Convener: We are discussing the appointment of an adviser, not a commissioner.

Karen Gillon (Clydesdale) (Lab): This is not a discussion about whether we want a commissioner or an adviser.

The Convener: Absolutely not.

Tricia Marwick (Mid Scotland and Fife) (SNP): The specification could be changed slightly in view of our discussion on the models of investigation. Nothing is set in stone at this point.

The Convener: Do we agree to submit the draft specification that we have before us to the corporate body?

Members indicated agreement.

Models of Investigation

The Convener: At our previous meeting, we agreed a four-stage model for the investigation of complaints. The clerks have been drafting a report for submission to the Parliament. It is incomplete at this stage, as it must incorporate our conclusions on the appointment of an investigating officer. Our discussion was suspended pending further legal advice, which has now been received. We have been told that the Standards Committee has the power to summon witnesses in regard to matters within the committee's remit. On the basis of that advice, we can decide whether to appoint a standards commissioner or a standards officer/adviser. I remind members that we have just agreed to appoint a temporary adviser and that we are now discussing whether to have a permanent commissioner or a permanent adviser.

Karen Gillon: I apologise for not coming to the previous two meetings of the committee. I had to attend a committee that was considering a bill. I have read the *Official Report* of the meetings in detail, but I would like our discussion of this issue to be postponed for two weeks. That would allow me to catch up and take soundings from colleagues. Our decision is important and I want it to have the greatest possible support.

Lord James Douglas-Hamilton (Lothians) (Con): I have consulted the 19 members of the Conservative group, who are strongly in favour of having a commissioner. They think that it would enhance the Parliament's status; they are against downgrading the Parliament. The independence that the committee has agreed that the investigating officer should have could enhance the status of the post. My group believes that the investigating officer should have statutory powers of investigation.

Patricia Ferguson (Glasgow Maryhill) (Lab): This is an important decision. We have had some experience of conducting investigations but I would welcome a bit more time to allow us to think things through further and to discuss the decision with colleagues. I am undecided on the matter.

Tricia Marwick: I welcome the legal advice that has been given and the clarity that it has brought. I agree that we have to make a major decision. If my colleagues feel that we need more time to ensure that we are in a better position to make our decision, I am happy to wait a couple of weeks.

The Convener: As we are asking for a temporary adviser, there is no great rush. It would be better if we took time to consult our fellow MSPs. The next meeting of the Standards Committee is scheduled for 14 June. I propose that we deal with this matter then. Are we agreed?

Members indicated agreement.

Cross-party Groups

The Convener: Item 3 on the agenda is the consideration of applications for recognition as cross-party groups. There are five applications before us. The first is for a cross-party group on agriculture and horticulture.

Tricia Marwick: The application appears to meet all the requirements as set down. I am happy to support it.

Karen Gillon: I should declare that I am a member of the group.

The Convener: Do we agree to approve the proposal?

Members indicated agreement.

The Convener: The second application is for a cross-party group on palliative care.

Tricia Marwick: I declare an interest as a member of the group.

Des McNulty: So do I.

The Convener: Did I notice you also declaring an interest, Patricia?

Patricia Ferguson: Sorry, convener, I thought that I was a member of the group, but my name is not on the list, so I do not have to declare an interest at this time.

Karen Gillon: It appears that we can accept this as an appropriate cross-party group.

The Convener: Is everyone content with that?

Members indicated agreement.

The Convener: The third application is for a cross-party group on crofting. Members will find that application in annexe C. Do members have any comments?

Mr Adam Ingram (South of Scotland) (SNP): It seems perfectly in order, convener.

The Convener: Do we agreed to accept the application?

Members indicated agreement.

The Convener: The fourth application is for a cross-party group on men's violence against women and children. That is outlined in annexe D. The clerk has been advised that Adam Ingram's name has been missed from the original application and should be added.

Lord James Douglas-Hamilton: I think that the application should be approved, but I make the point that violence against women and children is not perpetrated only by men. I hope that there will be objectivity in the proceedings.

09:45

Karen Gillon: I do not have any problem with accepting this group, but it seems to contain a significantly lower number of MSPs than it does of outside organisations. We may wish to bring that to the group's attention.

Tricia Marwick: I attended the initial two meetings of the group, although I notice that my name is not on the list. The fact that Adam's name is not on the list either might indicate that more MSPs are involved. I think that Karen is correct to make her point, but I am not sure that the list of the MSPs who have declared an interest in being a member of the group is complete.

The Convener: Do you wish me to write to Gil Paterson?

Karen Gillon: It would be useful to get a full list of the MSPs involved, given the number of outside organisations that are—appropriately—involved in the group.

The Convener: I will get that list. Is everyone content with that?

Members indicated agreement.

The Convener: The fifth application is for a cross-party group on pluralism in education, which is outlined in annexe E. Members will recall that this proposal came before the committee at our meeting on 5 April. We agreed to defer decision in order to obtain clarification of the purpose of the group. Members should have a copy of the letter dated 12 May from Brian Monteith, who would be convener of the proposed group, in which he elaborates on the group's purpose. In the light of Brian Monteith's comments, are members now happy to approve the proposal for the group?

Des McNulty: I do not seem to have a copy of Brian's letter.

The Convener: It is attached to the private briefing, with the introduction for this agenda item.

Karen Gillon: I declare an interest as a member of the Education, Culture and Sport Committee. I am concerned about the fact that the group contains few members and about the narrow approach that, in my experience of the group to date, it has been taking with regard to Steiner Waldorf schools. I would be concerned if the group was a lobbying body for those schools. Although Brian says in his letter that that is not the group's purpose, that is what its focus has been. That is not, however, pluralism in education and it is not what we should be about. I would like to see something more from the group about what it intends to do. Its aim is very narrow at the moment. I believe that it was set up in response to an appeal from a certain group of schools, and I think that it would be useful to get more

information on what the group is about.

The Convener: I refer you to the fourth paragraph of Brian Monteith's reply. It says:

"However, the group's focus would also seek to cover other curricular approaches to education, including home education and schools special in particular subjects or fields. Therefore, the group will not exclusively deal with Steiner Waldorf schools, although this undoubtedly will form a significant part of our activities."

Karen Gillon: Under "Purpose of the Group" in annexe E, the Steiner Waldorf schools are specifically mentioned. That gives me considerable cause for concern. One section of a pluralist agenda is mentioned; other sections are not. To mention one school and not other forms of pluralist education among the aims of the group is a matter of concern.

The Convener: The advice that I have just been given is that the letter accompanied the forms originally supplied by Brian Monteith. We will suggest that he rewrite the application on the basis suggested.

Karen Gillon: The forms are the documents that are on record for public viewing: as they stand, they give a clear impression that the group is set up with a specific interest in Steiner Waldorf schools.

Patricia Ferguson: I think that Brian Monteith and the group should be asked to reconsider their position entirely. His letter conflicts with the purpose as outlined in the original form. The form says:

"The main purpose of the group is to achieve pluralism within the state education system through including Steiner Waldorf within the maintained sectors."

That is not what Brian implies in his letter. There is a conflict in that, and I agree with Karen Gillon that we do not want a group whose purpose is to promote one kind of education system that it happens to believe in, for whatever reasons.

The Convener: It is the wording following "education system" in the description of the purpose of the group that is causing a problem.

Des McNulty: I have sympathy with the views that have been put forward. I am a supporter of Steiner schools, but I think that the title of the group—"Cross-Party Group on Pluralism in Education"—is misleading if the group is actually about Steiner schools. If it is about other aspects of pluralism, that should be reflected more accurately in its title or purpose. I think that Brian has to be asked to make a resubmission. As Patricia Ferguson says, an issue is likely to remain even in the event of resubmission. I do not think that the proposal could be allowed through without much greater clarity about the purpose.

Tricia Marwick: I share the concerns that have

been expressed. We raised this matter at a previous meeting and I am not yet convinced that the proposal satisfies the rules for cross-party groups, certainly not as the form has been submitted to us. Moreover, I am not comforted very much by Brian Monteith's letter. I suggest that the committee writes to Brian Monteith asking him to reconsider and greatly clarify the purpose of the group. I have concerns that the group continues to highlight one type of school, Steiner Waldorf, and I do not think that that is helpful or what we are aiming for with cross-party groups.

Lord James Douglas-Hamilton: I agree with Des McNulty's point that the application should be consistent with the terms of the letter. It is appropriate that any reapplication should be strictly consistent.

Patricia Ferguson: Another potential problem should be brought to Brian Monteith's attention. On the application form in the annexe, the secretary's name and the treasurer's name are listed, but they do not appear on the list of members on the previous page. We have no indication of who these people are—they are not MSPs and their reason for being part of the group is not clear.

Karen Gillon: The name and the aim do not sit together. It is stated:

"The main purpose of the group is to achieve pluralism within the state education system through including Steiner Waldorf schools within the maintained sectors."

That is not how pluralism is achieved within education; it is the inclusion of another form of education, but it is not pluralism. We have to be very clear the group cannot have the name that it has while it has the purpose that it has. I know that one of the people named is a member of the board of a Steiner Waldorf school. As Patricia Ferguson said, that is not clear in the list of members.

For clarity's sake, we have to state that a lobbying group is a lobbying group, whereas a cross-party group is a cross-party group. We need to be clear which one this is and Brian Monteith needs to be a bit more clear about what he is saying and doing.

The Convener: To conclude this agenda item, I will take on all the points that members have just made and I will write to Brian Monteith asking him to make a resubmission, bearing in mind members' comments.

Lobbying

The Convener: Item 4 is on our proposed inquiry into lobbying. The purpose of today's discussion is to give initial consideration to the scope and mechanics of the proposed inquiry, including some of the principal themes that we may wish to address. In addition to the short issues paper for this meeting, which members have in the file, I have arranged for recirculation to members the private briefing papers prepared for our meeting on 29 September last year.

In order to clarify the scope of our inquiry, I suggest that we go through the principal themes that emerged from our discussion on 10 November, which are listed in paragraph 3 of paper ST/00/9/4. I invite members to indicate whether any or all of those themes should be addressed.

Karen Gillon: Before we begin, I make it clear that I do not want this process to become a debate between lobbying companies about who is the best—a virility test about what association or group best conforms to our standards. We should ensure that the inquiry is carried out according to our agenda and not that of any outside organisation that may try to influence the committee.

We have to be clear that we are concerned with the conduct of members and how lobbying firms can influence—or otherwise—that conduct. How lobbyists conduct themselves as organisations is not necessarily in our remit or sphere of influence. The important issue is how they conduct themselves in relation to members and indeed how members conduct themselves in relation to lobbyists. I do not think that we should allow this issue to become a test of the best lobbying company, only for us to be lobbied persistently for the next six months until we come to a conclusion.

The Convener: That is a good point. Our remit is on the behaviour and conduct of MSPs—that is what we must focus on. However, we decided to instigate an inquiry into the lobbying system. Bearing in mind the parameters that Karen Gillon mentioned, I want to consider the scope of the inquiry. Will members comment on that? As a guide, we should consider the six bullet points in paragraph 3, which we identified at our previous meetings.

I start with the first bullet point, which asks whether there is a need formally to regulate lobbying companies, including the introduction of a register of recognised companies, and whether that should be part of the scope of the inquiry.

Mr Ingram: If it was part of the scope, it would take the focus of the investigation away from what

it should be—how lobbying impacts on members and what the Standards Committee should do to guide members in their relationship with lobbyists.

It would be helpful to have comparative work carried out showing how other countries deal with lobbying—for example, how they regulate lobbying. We are going down a blind alley if we investigate lobbying companies per se and come forward with recommendations with regard to their regulation. That should not be our focus.

Patricia Ferguson: I am not sure that we are considering the bullet points in the correct order. No 1 might be the conclusion we would come to having considered some of the other points.

The Convener: Can you suggest where we should start?

Patricia Ferguson: I am still trying to work that out, but No 1 should be the last one.

The Convener: If nobody minds, we will put that last. Members should not feel restricted by the bullet points.

Lord James Douglas-Hamilton: On the regulation of lobbying companies, comparative information on how Parliaments deal with this—some regulate; some do not—might be helpful.

The Convener: That was Adam's point.

Des McNulty: We should start with what behaviour it is reasonable to expect from MSPs and how the behaviour of lobbying companies or lobbying agencies might relate to that or cause difficulties for what might be recognised as correct behaviour. We have to consider both the situations that MSPs face in which lobbying takes place and what kind of lobbying is normal and acceptable—for example, lobbying by constituents or by organisations in one's constituency. We should then consider where there might be a need for regulation.

In our discussions in the past, we were fairly clear that we needed to consider the whole area of paid lobbying companies. We should be clear about where the boundaries are and how MSPs should behave in different situations. To pick up Karen Gillon's point, we should start not with the lobbying companies but with MSPs. We should identify those areas where lobbying might infect or interrupt what we see as legitimate behaviour.

10:00

The Convener: If I am reading you rightly, what you are saying is that we need to find out what lobbying of MSPs takes place.

Des McNulty: There is an argument for considering that and for considering what kind of problem we have.

The Convener: So we need to find out from lobbying companies what they do.

Des McNulty: We might more sensibly find out from MSPs.

The Convener: I am trying to consider how we should progress this practically. We need to find out things from our colleagues—those on the receiving end of lobbying—and from the other end.

Karen Gillon: I differentiate between lobbying and constituents putting their views to me, which they are entitled to do. I do not class that as lobbying. It is a legitimate part of being a constituency MSP and it is not part of this inquiry. I want to us to dissociate the word lobbying from constituents. It is their right to meet us and it is our responsibility to meet constituents when they want to meet us. It is part of our code of conduct that we should take on board the views of our constituents. We should draw a line through that and put it out of the way.

Two distinct types of lobbying take place. One type is done by voluntary organisations, trade unions and organisations that come to speak to MSPs—not exclusively, but usually—on single issues. The other type of lobbying is done by professional companies that represent other people.

The first question that we should ask ourselves is whether it is necessary that members know that they are dealing with a professional lobbyist. Do we need to know that? Yes, we do. How does the committee ensure that a procedure is in place for members to get that information? Are members required to ask for it, or should lobbyists be required to volunteer it? Within our powers, what can we do to a lobbyist who does not do that? We could do something to a member if they did not ask when that was required of them.

If somebody approaches me, I ask that person where they come from, who they represent and what they have come to see me about. I am not the perfect MSP, but I have seen others get their fingers burned when people made false accusations about them. We need to protect ourselves as much as we need to protect anybody else. Asking where someone comes from, whom they represent and why they have come to see us is a fairly good basis on which to begin and from there, other things will fall into place.

There is a difference between voluntary and professional lobbying organisations, but I should know that somebody is coming to lobby me—on behalf of Shelter or Unison or whoever—about a particular issue. It does not take a genius to work that out. If somebody comes from another organisation, such as a professional lobbying company, I will not know whom it is that they represent until they come, unless I ask them

beforehand.

In the early stages of the Education, Culture and Sport Committee's work, sportscotland was represented constantly by a lobbying company. I do not think that a Government-funded organisation should need to be represented by anybody when it comes to speak to the body that funds it. People from such organisations should represent themselves, and that is the line that that committee has taken.

The focus should be on what a member does. It is far easier to put in place some kind of mechanism to give us control over what happens. If we say that the emphasis should be on the lobbying companies and that they should be registered and declare their interests and so on, what would we do to them if they did not comply? We could not stop them from operating. We might put them on a blacklist and say that they cannot come into the Parliament buildings, but how could we stop them speaking to a member in a restaurant or elsewhere?

Lord Neill came down clearly against regulation. Since the beginning, it has been my view that by regulating people, one would give them credence that they do not have at the moment. Westminster has a problem with lobbyists. America has a problem with lobbyists. I do not want this Parliament to get into a position in which professional lobbyists have more say than ordinary constituents. We must try to achieve a balance.

Lord James Douglas-Hamilton: I understand that a lobbyist who breached the code of conduct might be suspended. The question then arises whether they would be suspended only through a compulsory code of conduct under a system of registration, or under a voluntary code of conduct. We must answer such questions before we can reach conclusions.

The Convener: If there are no further comments, are members content that the inquiry should focus on MSPs, as is our remit?

Members indicated agreement.

The Convener: Let us discuss the mechanics of the process. Should we prepare a consultation paper to go out to MSPs and professional lobbying groups and voluntary organisations?

Tricia Marwick: Karen Gillon mentioned the differences between voluntary organisations, trade unions and professional lobbying organisations. If we accept that voluntary organisations and trade unions have a right to engage with MSPs, will our inquiry focus only on how MSPs interface with the professional lobbying companies? I want to be clear about the scope of the inquiry. Are we talking about all the organisations that lobby us?

Karen Gillon: There is the single approach and the double approach. First, we need to know who is approaching us. Then we can decide how and whether we regulate or monitor such lobbying. If a person comes to an MSP on behalf of somebody else, that MSP should be obliged to find out on whose behalf that person is coming.

If somebody phones me to say that they would like to come and speak to me on behalf of Amnesty International, I know on whose behalf they are coming and roughly what they represent. I know that that person is not coming to me as an ordinary Clydesdale constituent, but as somebody who has a specific remit as part of an organisation. Of course, there is nothing that says that constituents cannot do the same, but if people are formally representing an organisation we should be aware of that. If they are paid to come as a professional lobbyist, we should know on whose behalf they are coming and what their agenda is.

If somebody comes to me from a voluntary organisation, I know who that person is and whom the person represents. I might know who they are if they come from a professional lobbying company, but I might not know whom they represent, neither will I know what other organisations they might represent, which is another important consideration.

Des McNulty: We are a new and emerging Parliament and we must, first and foremost, fit in with Scotland's people's requirements and needs. The ways in which individuals and organisations access the Parliament is evolving; we are only a year into our operation. There has been much trial and error on the part of different kinds of organisations to see how they can access the Parliament best.

There is a danger that if we become too prescriptive, or talk about regulation before we talk about the process, we might do things the wrong way round. There must be a debate about the operation of the democratic process and access to the Parliament. Regulation should be part of that debate, but not the first point of it. The other side of the coin is that we will need some guidelines that will offer protection from the absence of disclosure by professional lobbying organisations, should that happen.

In a sense, the emphasis should be on paragraph 8 of the paper—which is about the democratic processes and the way things work—rather than on comparisons with other Parliaments. Such comparisons are important, but we must tailor what we do to our own requirements.

Karen Gillon: To be fair, that work has already been done. The consultative steering group did a

considerable amount of work on what Parliament should be about and on the role that it should play. We are supposed to be an open and accessible Parliament. Since the beginning, I have said that there should be no need for people to use outside organisations to speak to MSPs. That is the premise of the democratic process under which I work—I am accountable to the people who elected me.

I accept that there might be a role for professional lobbying companies, but I do not want Parliament to be dictated to by the whims of professional lobbying companies, or by how much money people can pay to such companies to get access to and influence over MSPs. That is, unfortunately, what has happened in other parliamentary institutions.

We are at the beginning of a new life; we have been here for a year and I think that we have done fairly well in being open and accessible, but that should be the premise on which we all work. I do not think that we need to go over that again. We know where we are and what we should do. We must now decide how to ensure that members live up to the standards that were set for us by the Scottish public when they voted for the Parliament in the referendum on 11 September 1997.

Mr Ingram: I agree with much of what Karen Gillon and other members have said. However, we must get down to the nitty-gritty, rather than going round in circles. The Neill committee and the consultative steering group examined lobbying and came to the same conclusion: that we should strengthen the guidance to those who are lobbied—the MSPs. Rather than do as Des McNulty suggests, I would prefer a carefully phased process. It is not necessary to jump into a huge inquiry into lobbying, because we have better things to do. I would like some comparative work to be done on how lobbying is conducted and dealt with in other Parliaments. That should be our starting point. If we had such a paper in front of us, we could decide how to progress. I would rather not undertake a detailed lobbying inquiry at this stage. We should take time to examine the issue.

The Convener: I suggest that the clerks first contact MSPs to gain information as to—

Karen Gillon: But what would we ask? We need to decide on that. I think that Lord James is going to come in with a suggestion.

10:15

Lord James Douglas-Hamilton: I will respond to Karen's invitation. Adam is absolutely right to stress the need for comparative work, which should be followed by a consultation paper. We do not know the scope of the problem. We all feel strongly that we do not want to be approached by

someone under a guise who turns out to be a lobbyist. MSPs do not want to be misled, and a consultation paper, once we have approved it, would be the way forward.

Tricia Marwick: My problem with comparative work is that, often, apples are not compared with apples, but with pears. When we consider the ways in which MSPs are regulated, we have to consider advocacy and sponsorship, for example. They are prohibited under the Scotland Act 1998, but other Parliaments might not have the same prohibitions. Other politicians might be allowed to act as advocates for organisations; there are some Parliaments not a million miles from here where that is an accepted practice. However, it is not accepted practice in Scotland and I would, therefore, worry about spending a lot of time on comparing the Scottish Parliament with various Parliaments throughout the world. It would not be possible to consider only lobbying—other comparisons would have to be made before we were comparing apples with apples rather than comparing apples with pears.

I agree that we should consider how MSPs conduct themselves and how they engage with people and organisations; but how do we deal with the professional lobbying companies that are engaging with Parliament at the moment? A member suggested earlier that we could perhaps ask MSPs about their experience with lobbying companies to date.

In October and November the committee held an investigation. It is not beyond the wit of any of us to recognise that, since then, the lobbying companies have acted entirely properly and perhaps even at arm's length from MSPs. As a result, if we ask MSPs about their experience, we might not get the answers that we require for our inquiry. My impression is that the professional lobbying companies are being extremely careful about the ways in which they engage with Parliament.

If we do not carry on with the inquiry, and if we do not ensure that we properly establish the boundaries, the boundaries will be breached. That is why we need to have the inquiry and why we need to be sure about its terms of reference. We need to consider the way in which we engage with the lobbying companies—not only at the moment, but in the future, when lobbygate might be a distant memory.

Des McNulty: There seems to be a consensus that we begin from the position of the MSP, which seems logical. I agree with Karen on the acceptability of legitimate access for constituents and of lobbying through voluntary groups. Paid lobbying is another issue. In the consultative steering group report, as far as I am aware, nothing is written about a clear separation in

principle between those different types of lobbying. If the committee wishes to establish that separation on paper, and to found its consideration of the regulation of lobbying on a separating out of what is acceptable from what may require to be controlled, that would be reasonable.

However, if we begin by considering the regulatory regimes that exist elsewhere, I am nervous that we will end up by not considering our specific circumstances and by choosing someone else's solutions. That may not be the best way for us to proceed. We will have to consider the technicalities of regulatory regimes elsewhere, but the first thing that we should do is to establish our terrain. We have to establish the correct behaviour for an MSP in different situations and, specifically, when confronted with a paid lobbyist. What procedures will we lay down for MSPs to cover the ways in which they can respond to approaches? How should lobbying companies work? What regulatory regime—if there is to be such a thing—is appropriate for our context? Those are the issues that we have to address, and we should start by considering what we want.

Karen Gillon: Rather than doing a comparative study, we should consider best practice. There is good practice out there and it would be useful for us to do a study of what is happening in the more forward-thinking and enlightened Parliaments of the world.

Meanwhile, we should produce interim guidance for MSPs. That can be as basic and bland as you like, but it should tell MSPs what to do and when. It should not be stupid, nanny-state guidance, but it should guide people as to the kind of questions that they should ask themselves.

We should also work on three different consultation papers. One should be for MSPs and should ask them about the kind of organisations—including voluntary organisations and professional lobbying companies—that have approached them over the past year. It should also ask about the manner of the approach. That would give us information on the extent of lobbying at the moment. However, I accept what Tricia said: people are on their best behaviour just now, especially professional lobbyists, even if that is for no other reason than that they know that we are undertaking this inquiry.

The second paper should be for voluntary organisations and trade unions—the kind of organisations that lobby on behalf of their members. We should ask them how they approach MSPs. How do they disclose themselves? What kind of work have they been involved in over the past year? That would allow us to check whether the views of those organisations tie in with the experiences of MSPs.

We all have a positive view of voluntary organisations, but that view may not be correct. It may be that we should check whether everything that we think is true really is true, and that the best practice that we assume is being applied really is being applied.

The third paper should be for the professional lobbying companies—and this is where I think that we could have some real impact. I would like that consultation paper to ask some serious questions. How do professional lobbying companies operate? How do they disclose themselves? Who are their clients? How much are they paid? How much money people give is the real question.

I do not know whether it is in our power to get that information, but I would like us to ask such questions—we would need to take some legal advice on that. If somebody gives you £100 to lobby on their behalf, and somebody else gives you £10,000 for that purpose, there will be a distinct difference between the types of service that will be provided, and a distinct difference between how much they think that they are getting for their money. People do not give someone a heck of a lot of money if they do not think that they can deliver something. Lobbying companies never publish those kinds of lists, but that is the sort of information that I, as an MSP, would like to have.

Mr Ingram: I do not think investigating lobbying companies would fall under the remit of a Standards Committee investigation.

The Convener: A Standards Committee investigation has to be focused on MSPs.

Karen Gillon: I could argue that, if I am speaking to someone who is approaching me on behalf of somebody else, I should know the premise on which they do that. I do not say that I am necessarily right, but I think that it would be useful to take legal advice on this matter to establish what scope and influence an inquiry could have.

Mr Ingram: I would certainly approve of a form of investigation of such companies, because they have all sorts of connections with the body politic in Scotland. They do not just lobby; they do other types of work for various organisations that are connected to government, such as local enterprise companies. I am sure that that would be an interesting investigation, but we should separate that from providing guidance to MSPs. I agree whole-heartedly with what Karen Gillon said about establishing what best practice is in guidance to members of Parliament around the world. That is what I was driving at when I talked about the need to have a comparative understanding of lobbying.

I do not want us to consider a comparative analysis of regulatory regimes because—Tricia Marwick is quite right about this—this is a new

Parliament and we want to start by examining best practice and deciding whether it can apply to the Parliament or whether we should take a different route.

Lord James Douglas-Hamilton: I strongly agree with what Karen Gillon said about establishing best practice. That will involve a certain amount of comparative work, but the aim should be to find out what is currently best practice. It should not be very difficult to draft guidance for MSPs in a short paper—much of this is common sense. If any member is suspicious that someone is being paid to lobby, they should regard that person in a totally different light from someone who is writing to them as a constituent.

I think that the consultation paper will reveal the information that Des McNulty asked for about the extent of the potential problem. It will highlight Scottish circumstances vividly. I suspect that part of the problem is that lobbying has increased enormously in the past 20 years. I suspect that in the past year in Scotland there has been a shrinking market. The results of a consultation paper would reveal very clearly whether I am right about that, so such a paper would be the right way forward.

Tricia Marwick: I will make a couple of points about how we should proceed. We need to ask every MSP what their experience has been of voluntary organisations and invitations, and how often lobby companies have been in contact with them. It is important that we get as much information from them as possible. When we ask the professional lobby companies what their experience of the Parliament has been, we need to ask on how many occasions and for how many clients they have been in touch with MSPs. If we know whether they been in touch with MSPs for one client, or five, 10 or 20 clients, we will have an idea of the scope of the interaction of lobby companies with the Parliament.

It would be interesting to compare the experiences of MSPs and lobby companies to find out whether someone who said that they were phoning from company X was from that company or was from a lobby company. We need information.

10:30

I share Karen Gillon's views, which are probably shared by other members. I see no reason why professional lobby companies are needed to engage with MSPs on behalf of a third party. If we are truly to be an open and accountable Parliament, we have to reach a position where every MSP feels that we do not want people to act as brokers and that that is not how we want to do business. Although I recognise that there will

probably always be organisations that are engaged to do lobbying work, we need to give the clear message that, if an individual or an organisation employs somebody to do such work on their behalf, that person will have no access or information that the individual or organisation could not have obtained from an MSP.

Patricia Ferguson: The point about there being no need for lobbying companies in the Parliament has been well made by several members. We agree on that point, as we have done previously. It would be interesting to gather information on what is happening. I am concerned about the difficulty of doing that and I think that thought has to be given to the process. From my experience before I was a member of the Parliament, I know that the people who are hired to lobby are often the same people who might be hired to do public relations work on another occasion—they may approach members for different reasons. We have to know about both sets of activities. Consultation papers have to be clear that we are seeking information about both, because we have to know about the scope of the operations of some of these companies before we can make decisions.

I presume that there is a professional body that governs such organisations and sets a code of practice for them—I have read about it, but I have never encountered it. It would be interesting to obtain that code of practice for information and to compare our results with it.

Tricia Marwick: The codes of conduct of the organisations that represent lobbying companies are codes of conduct—the question is whether they should be enforceable. The company at the centre of the lobbygate inquiry trumpeted the fact that it was the best and the most professional. That may not have been our experience and it was certainly not the experience of Beattie Media, which closed down its public affairs arm shortly afterwards. We need to take with a pinch of salt what the professional organisations that exist to represent their own interests are likely to tell us. They are more likely to suggest that everything is hunky-dory. We need to guard jealously the reputation of the Scottish Parliament; no organisation should stand in the way of that.

Patricia Ferguson: I agree with what Tricia has said. That is why I would like to see the code of conduct for lobbying organisations and to compare it with our own experience and evidence.

The Convener: I think that we can get that fairly quickly. We have had a useful and comprehensive discussion. Everyone has expressed the need for more information. I like the idea of an audit of best practice and of contacting MSPs and lobbying organisations—both voluntary and so-called professional organisations. I suggest that we draw together an issues paper, which would include

draft questions for members and for the lobbying organisations. We could consider that at our next meeting and move on from there. Are we agreed?

Members indicated agreement.

Des McNulty: Karen Gillon made the suggestion—endorsed by Lord James—that we introduce a simple practical guide for MSPs in the interim.

The Convener: The advice that I have been given is that that would prove difficult for the staff, given the extremely short time scale.

Tricia Marwick: We have initial guidance within the code of conduct. That is a good holding position and we can proceed on that basis. When we ask MSPs about their experience of the past year, it might be good idea to draw their attention to that extract. We need to remind MSPs, perhaps on a yearly basis, how they are best protected from suggestions that they are acting improperly.

Some time ago, we talked about the ministerial code of conduct; we were concerned that lobbying and the way in which lobbying companies and ministers interact had not been addressed. The committee was going to take up that issue. In my view, ministers are MSPs and are therefore subject to the Parliament's code of conduct. However, there might be a case for considering a separate ministerial code of conduct.

The Convener: I have already written to the Executive to indicate that there is no distinction in the application of the code of conduct—it applies to all MSPs, regardless of any other post that they may hold. Furthermore, in section 7 of the code, we already have a whole chapter on lobbying; that should suffice in the meantime. We have not had a formal response from the Executive on the ministerial code. I have been chasing it up; the clerking team and I expect to receive a response next week. I would be astounded if we did not have that for our next meeting.

We now move to item 5, which is the discussion of the draft report on the register of members' staff interests. As we agreed at the beginning of the meeting, this item will be taken in private.

10:38

Meeting continued in private until 11:02.

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