

STANDARDS COMMITTEE

Wednesday 28 June 2000
(Morning)

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STANDARDS COMMITTEE

11th 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 28 June 2000

(Morning)

[THE CONVENER *opened the meeting at 09:31*]

The Convener (Mr Mike Rumbles): Good morning and welcome to the 11th meeting this year of the Standards Committee.

Before moving to the agenda, I suggest that the committee decides the manner in which we intend to deal with items 4 and 5 on the revised agenda.

Item 4 is consideration of a paper to be submitted to the Scottish Parliamentary Corporate Body on the procedure to be followed for the appointment of our temporary standards adviser. As the matter addresses internal parliamentary policy, I suggest that we move into private session for discussion of it, if members are happy with that.

Members indicated agreement.

The Convener: Item 5 is consideration of a draft report on our inquiry into models of investigation. As we are considering the contents of a draft report, I propose that we also take that item in private.

Members indicated agreement.

Annual Report

The Convener: Agenda item 1 is the consideration of a draft text for inclusion in the annual report.

Rule 12.9 in the standing orders states:

“Each committee shall, as soon as practicable after the end of each Parliamentary year, submit a report to the Parliament.”

The conveners liaison group agreed at its meeting yesterday that the reports of all 16 committees should be published in a single volume and that they should conform to a standard pattern. Members should have in front of them a draft of the proposed text to be included in the report on the work of the committee. It includes all of the detail that is required to be incorporated. Do members have any comments on the draft annual report?

Tricia Marwick (Mid Scotland and Fife) (SNP): I would like the report to say that we initiated a few debates in the Parliament.

The Convener: Are there any other comments?

Lord James Douglas-Hamilton (Lothians) (Con): Is the register of interests for members' staff coming forward after the recess?

The Convener: Yes. At the conveners liaison group meeting yesterday, we agreed that we should consider that as a priority as soon as we come back in September.

A timetable is also attached. Rather than bringing the matter back to another committee meeting in September, are members content for me to make any necessary editorial changes during the recess?

Members indicated agreement.

Cross-party Groups

The Convener: Agenda item 2 is the consideration of applications for recognition of cross-party groups. There are three applications; members have copies of the forms that have been submitted.

The first application is for a cross-party group for the Campaign for Nuclear Disarmament. The proposal was considered originally at our meeting on 5 April. The committee agreed to request clarification of the purpose of the group and to request details of the steps that have been taken to secure Conservative party representation in the group. The revised proposal was considered at our meeting on 3 May, when we agreed that further clarification was required about the purpose of the group. In that respect, members should have in front of them a letter from the convener of the proposed group. The letter is attached to the private briefing note for this agenda item. Do members have any comments on the revised application?

Lord James Douglas-Hamilton: I would seek a vote against the application on the ground that the group is not an all-party group in the normal sense of the phrase. As far as I know, there is no all-party CND group in the House of Commons, although obviously the Campaign for Nuclear Disarmament expresses its view strongly in other ways and has plenty of meetings with MPs at Westminster. For that reason, I wish my vote of opposition to recognition of the group to be recorded.

Tricia Marwick: We had this debate when we first considered the application.

Our guidelines for the setting up of cross-party groups allow the committee to accept, in exceptional circumstances, a cross-party group that does not include members from all the parties that are represented on the Parliamentary Bureau. It was always felt that there would be difficulty attracting Conservative support for this group, but we noted the last time that it had support from the Labour party, the SNP, the Liberal Democrats, the Scottish Socialist Party, the Green party and the only non-party member of Parliament. On that basis, we have already agreed to approve the group.

The Convener: Are there any other comments?

Members: No.

The Convener: We will vote by a show of hands.

Karen Gillon (Clydesdale) (Lab): Do we need to have a vote?

The Convener: I would rather that we did not go to a vote.

Lord James Douglas-Hamilton: My group would like me to record a vote of opposition to recognition of the group because a precedent might be set and we would be opposed to such a precedent.

Karen Gillon: We can note Lord James Douglas-Hamilton's disagreement to the proposal without going to a vote.

Lord James Douglas-Hamilton: My group would like me to record a vote. I regret having to make that request—this might be the first vote that we have had in the committee, but it is a matter of principle. If the group was a multilateral disarmament cross-party group, there would be no problem, because the Conservative group strongly supports multilateral disarmament. Our objection is that the group is a unilateral disarmament group that cannot, therefore, be an all-party group.

Karen Gillon: The name of the group and the first purpose of the group seem to be slightly different. The name of the group is the cross-party CND group and the first purpose of the group is:

"To act as a policy forum for discussion on policy impacts on Scottish nuclear issues."

That is a wider purpose than the name suggests.

The Convener: What are you suggesting?

Karen Gillon: I am not quite sure. It is just that the purpose of the group seems to be slightly different from what its name suggests. The purpose seems to be what Lord James Douglas Hamilton is describing—a discussion on the multilateral issues around nuclear disarmament—but the name suggests a unilateral approach.

The Convener: To be fair, we asked the group to expand on its purposes, and that is the result.

Karen Gillon: Is point 4 within the remit of a cross-party group?

The Convener: Yes. I am advised that point 4 is within the remit of such a group.

Patricia Ferguson (Glasgow Maryhill) (Lab): Could we be reminded of the wording of our guidelines for the setting up of such groups? Do the guidelines say that the groups must have all-party representation, or that they should have it?

The Convener: I looked at the code of conduct just before the meeting. I shall read the relevant section, for the benefit of committee members. Rule 2 of section 8.3 of the code of conduct deals with the conduct of cross-party groups. It says:

"The group's membership must be open to all Members of the Parliament and must include at least 5 MSPs of which at least one Member must be from each of the parties or groups represented in the Parliamentary Bureau."

The sentence that follows is appropriate:

"In circumstances where the Standards Committee considers it is merited in relation to a particular group, this rule may be modified or waived."

Lord James Douglas-Hamilton: There is no reason for the committee to reflect practices in the House of Commons, but to the best of my knowledge, there is no all-party group for the CND there, although the CND is a campaign group.

The Convener: We must focus on what is right for Parliament and whether acceptance of the group would constitute an appropriate deviation from the rules. We are certainly allowed to make such a deviation.

Mr Adam Ingram (South of Scotland) (SNP): This is the third or fourth discussion that we have had on cross-party groups. After every discussion, the convener has sent a letter to the proposers, asking them to comply and to forward further information to the committee. They have done so on each occasion and have satisfied the requests of the Standards Committee. It would therefore be appropriate to bring the discussion to a conclusion. If we have to vote on it, we will do so.

The Convener: I wanted to ensure that all members had the opportunity to voice their views. If members are content, we will conclude the discussion.

Karen Gillon: I was not involved in the previous two discussions, as I had commitments to other committees. Should cross-party groups reflect the powers of the Parliament?

The Convener: They must be parliamentary in nature.

Karen Gillon: This Parliament does not have power over defence issues. That is why I asked that question.

The Convener: That definition would be too restrictive. The Parliament is allowed to discuss any issue.

Tricia Marwick: That would call into question some of the groups that we have previously approved, especially on issues of poverty—benefits are reserved to Westminster.

Patricia Ferguson: I have no problem with saying that the rule concerning the political make-up of a group should be waived in this case. Although I have a lot of personal sympathy for the aims of this specific group, my concern is whether it is a cross-party group, as such groups are set out in our rules, or whether it is merely a branch of the CND in the Scottish Parliament.

The Convener: It must not be merely a branch of the CND in the Scottish Parliament.

Patricia Ferguson: That is why I am concerned

about point 4 in the aims of the group as they have been described. Point 4 talks about the group being

"a forum for networking and support led by MSPs sympathetic to the aims of this group."

There is some ambiguity in that statement.

The Convener: Are you saying that point 4 in the aims of the group is inappropriate?

Patricia Ferguson: Potentially.

Mr Ingram: I cannot agree with that interpretation of point 4. Most cross-party groups would operate in such a manner. I am a member of a couple of cross-party groups. Networking and support for the broad subject on which the groups are focused are part and parcel of the activity of the groups and are among the main reasons for setting up cross-party groups.

09:45

Karen Gillon: The real issue of contention is the name of the group. In our discussion on the proposed cross-party group on pluralism in education, the committee said clearly that that group's focus should not be on one organisation. Given that we have set that standard for that group, we must be careful not to say that it is okay to have a group that is based on only one organisation in this case, just because most of us agree with the general thrust of the CND's aims. We must be careful that we are not setting ourselves up to be knocked down.

Tricia Marwick: I have sympathy for both Patricia Ferguson's and Karen Gillon's views. I want to approve the group, but I am concerned that if it acts as a CND branch of the Scottish Parliament, it might be very different from what it is intended that a cross-party group should be. We should approve the group, but we should say clearly that we do not expect it to be represented as a branch of the CND in that organisation's literature—that is clearly not what we are approving today.

Lord James Douglas-Hamilton: I am under no illusions about the CND campaigning against the Government. There is no difference between what the Tory group thinks and the views of Labour supporters. To recognise the group would set a precedent that is quite different from any that we have set hitherto. My political group is wholeheartedly opposed to that. We are in favour of CND having the opportunity to come and express its views in a different form to MSPs, but we do not believe that that organisation is an all-party group.

The Convener: The rules of the code of conduct allow us to deviate from the standard and we are allowed to approve the group if we want to. The question is whether it is appropriate for us to do

so. If there is hostility towards approval from one political group, we must be very careful about approving the group. I hope that members will consider that.

Karen Gillon: Do you have a list of the organisations that are members of the group?

The Convener: There is a list of its members in annexe A, which includes individual members of the Scottish Parliament, researchers, an organisation called Trident Ploughshares 2000 and a parliamentary liaison officer with the CND. I assume that an official from the CND will also be a member of the group.

Karen Gillon: My concern is that we should not approve groups that focus on one external organisation. It would not be appropriate to have a cross-party group on an issue that was identified with a single group. The committee must be careful not to set double standards. We rejected the proposed cross-party group on pluralism in education because we thought that it was a front for Steiner Waldorf schools. If we are saying that this is a CND organisation in the Parliament, funded by parliamentary money, we must be very careful that we are not setting double standards.

The Convener: Would it be different if this were called the cross-party group on nuclear disarmament, rather than the cross-party CND group?

Karen Gillon: There is a clear distinction between those two things.

Mr Ingram: I understand that the CND is an umbrella organisation that has a number of affiliates to it, similar to Age Concern. I am a member of the cross-party group on older people, age and aging, and Age Concern is closely associated with that group.

Karen Gillon: That is not quite the same.

Mr Ingram: No, it is not, but we are in danger of splitting hairs. I indicated at the outset that it might have been useful to change the name of the group to, for example, the cross-party group on nuclear disarmament. That would be the most appropriate name for the group and that might allay some of the Conservative members' concerns about it.

The Convener: That might deal with some of the concerns that Lord James Douglas-Hamilton has expressed.

Lord James Douglas-Hamilton: I make no secret of the fact that we are in favour of multilateral disarmament, which is taking place.

Tricia Marwick: There is general concern around the table about the name of the group. Adam Ingram made the point that he is a member of the cross-party group on older people, age and aging. That is not the same as being a member of

a cross-party group on Age Concern. Karen Gillon and I have expressed concerns about the fact that this would be a CND group within the Parliament, as opposed to a cross-party group of MSPs who are concerned about nuclear disarmament. In our previous meeting we inched towards the position in which we find ourselves at the moment.

To be fair to the proposers of the group, they have done everything that we asked of them. I feel guilty about asking how they would feel about changing the group's name. If, however, they read the *Official Report* of this meeting, they will see that members have genuine concerns—not only about the group, but about setting a precedent for future groups. Perhaps we should be careful and take the opportunity to explain our concerns to the proposers of the group. The convener may want to seek a meeting with them. I would be happy to join him in explaining our concerns and inviting them to come forward with a name that is more acceptable to the committee.

Karen Gillon: If my memory serves me correctly, we raised two concerns about the proposed cross-party group on pluralism and Steiner Waldorf education. The first was about the name, and the second was about the inclusion of a reference to a specific organisation. To that extent, the discussion that we are having now duplicates the one that we had about Steiner Waldorf schools. We have to say to everybody else the same things that we said to the proposers of the cross-party group on pluralism and Steiner Waldorf education—that special mention of a particular organisation should not be made in the aims of a group.

I am a member of the cross-party group on agriculture and horticulture, but that group does not have as an aim "to maximise information and expertise from external sources, including the National Farmers Union". It refers to a wide range of organisations that are involved in agriculture and horticulture, but it does not name any specifically. If specific organisations are named, that sets them apart and makes a statement about the group. If members want to set up a CND branch in the Parliament, they can decide to do that. However, it would not be a cross-party group.

The Convener: I would like to draw the discussion to a close. It has been extremely beneficial to debate the issue at length again. If members are content, we will defer the application and I will write back to Dorothy-Grace Elder explaining the situation and offering to meet her to discuss it. The deputy convener, Tricia Marwick, might also want to be at that meeting. We will ask the proposers of the group to produce another application on the grounds that have been mentioned.

Members indicated agreement.

The Convener: The second application is for a cross-party group on drug misuse, which has been circulated to members as annexe B. As no one has indicated that they would like to comment on the proposed application, I ask members whether they are happy to approve the proposal.

Members *indicated agreement.*

The Convener: The third application is for a cross-party group on Gaelic, which members have as annexe C. Do members have comments on the application?

Karen Gillon: A specific organisation is involved, but it is not mentioned in the name or aims of the group. That is a good example of how applications should be worded.

The Convener: Yes. The aim of the group is:

"To promote the cause of Gaelic and to inform members of the Scottish Parliament about Gaelic and its culture."

Are members happy to approve the group?

Members: Yes.

Parliamentary Bureau Referral (Reid Principles)

The Convener: The third item on our agenda is consideration of a paper on the so-called Reid principles, which have been referred to us for approval by the Parliamentary Bureau. Members will be aware that discussion of these matters has been taking place between the various party groups. I am advised that there has been general agreement between all groups. If the committee endorses the paper, the bureau is keen that the paper should be put before the Parliament before the recess, with a view to its incorporation in the code of conduct as an annexe. Would members like to comment?

Karen Gillon: I have not received the paper.

Mr Ingram: The paper arrived on my desk late yesterday afternoon and I have not had the opportunity to examine it in detail. This smacks of our being bounced into doing something.

The Convener: I received a request for the committee to endorse the paper only yesterday.

Tricia Marwick: My understanding is that the Standards Committee is to decide whether this paper should be included in the code of conduct as an annexe. It is not the role of the committee to go through the paper line by line and to suggest changes. The paper has been agreed and all that remains for us to do is to decide whether it should become an annexe to the code of conduct. After that, we can debate it in Parliament.

The Convener: I am informed that the paper has been approved by all four parties that are represented on the Parliamentary Bureau. However, we are the Standards Committee and it is the intention that the paper should be included in the code of conduct that we have recommended to Parliament. That means that we should ensure that we are content with it.

Karen Gillon: This might be a silly point, but if the paper is to be incorporated in a code of conduct referred to Parliament by the Standards Committee, I do not think that it should be named after a member of the Parliament. That would be inappropriate.

The Convener: I agree. I was going to suggest that we replace all statements in the paper in the first person with statements in the third person. That is appropriate for an annexe to a code of conduct. The principles should not, perhaps, be referred to as the Reid principles.

Karen Gillon: I understand that the paper is the working document that will govern relations between members of the Scottish Parliament. Its title should reflect that and should not refer to any

member. The matter has been the subject of considerable debate and speculation in all groups. The title of the paper should reflect the fact that it has gained substantial cross-party support. We have moved on from where we were.

The Convener: I should inform members that I have the suggested draft, which I was given only yesterday. I will lodge the draft amendments on the committee's behalf. The paper is headed "Relationships Between MSPs: Guidance from the Presiding Officer". The paper can be made available to members.

Karen Gillon: Does the guidance need to be "from the Presiding Officer"?

Patricia Ferguson: Yes. We should—as Tricia Marwick suggested—agree to the paper being included as an annexe to the code of conduct and relate that agreement to Parliament.

Lord James Douglas-Hamilton: I second that.

Karen Gillon: Why must the annexe be headed "Guidance from the Presiding Officer"? I ask for clarification.

The Convener: Disputes are referred first to the Presiding Officer. If the Presiding Officer is unable to sort the problem out, it will be referred to the Standards Committee. The guidance is, initially, from the Presiding Officer.

Karen Gillon: Does the code of conduct say that it is guidance from the Standards Committee?

The Convener: No.

Karen Gillon: I do not know why the guidance should be headed as it is.

Lord James Douglas-Hamilton: I have an interest in the matter, because I am on the Parliamentary Bureau—as, indeed, are Tricia Marwick and Patricia Ferguson. Des McNulty is a member of the Scottish Parliamentary Corporate Body, so we all have one interest or another. The document was worked up over many months by the Presiding Officer after consultation through the business managers of the various party groups. The initiative in the matter was taken by the Presiding Officer.

The Convener: I understood that we would all have seen the document in our party groups.

Tricia Marwick: Most groups have had discussions in the past few months about the principles of the code of conduct. We have inched towards agreement.

On Karen Gillon's question about why the guidance had to come from the Presiding Officer—I draw Karen's attention to paragraph 19, which is headed "Enforcement" and which says:

"Any complaint . . . should in the first instance be made to

the Presiding Officer."

This is about relationships between MSPs and how we conduct our business. Karen Gillon will note that the paragraph also says:

"Any MSP . . . who remains dissatisfied"

will have their case referred to the Standards Committee. The Presiding Officer is, in the first instance, responsible for relationships between MSPs.

The Convener: The clerk is prepared to draft a motion asking the Parliament to endorse the paper and to agree to it being annexed to the code of conduct. I understand that such a motion could be decided on without debate. Are members happy for a motion to be lodged in those terms and in my name on behalf of the committee?

Members indicated agreement.

The Convener: Is Karen Gillon happy about that?

Karen Gillon: I am less than convinced about the title of the annexe, but I will accept that.

The Convener: If members are content to—

Lord James Douglas-Hamilton: I would like to make the point that I hope that the code of conduct will be reviewed in due course in the light of experience, so that whatever is decided now is not going to be the last word on the subject.

Karen Gillon: The issue is not that I do not accept the report, but that guidance from the Presiding Officer is being included as part of a document which will result in referrals to the Standards Committee as the final arbitrating body. It could be argued that the code will be merely guidance from the Presiding Officer and that it carries no weight in terms of the Standards Committee's position. We must be clear what the committee is saying. Are we saying that this is the code that members should follow and that will be invoked by the Standards Committee? We must make it clear that the code's status is not merely that of guidance and that it is enforceable by the committee.

The Convener: The advice that I am getting from the clerks—with which I agree—is that if the guidance is adopted by Parliament and annexed to the code of conduct, it becomes part of that code and carries with it the code of conduct's full authority. The code of conduct mentions conduct at meetings and refers to the Presiding Officer in paragraph 7.3, so the guidance would have the same weight as any other part of the code of conduct.

Karen Gillon: Most complaints will come to the committee—that is why difficulties will arise. The members of the committee must be clear—we will

have to enforce the guidance. If we are saying that we will enforce it, we must know what the guidance's status is and how we are to enforce it.

The Convener: I accept that. I offer Karen Gillon a copy of the draft motion that will go before Parliament before the recess.

It is a little unfortunate that we must deal with the matter in the last meeting before the recess, but I am afraid that that could not be helped because of the time that it took to reach agreement among the four parties. Efforts were made to get the guidance to the committee before the recess so that it could be adopted and so that it would carry the same authority as the code of conduct.

Des McNulty (Clydebank and Milngavie) (Lab): I would like to make two points. I agree with Karen Gillon's point about avoiding association of the guidance with an individual. That matter should be dealt with—I do not want sight of that point to be lost. I have some sympathy with Karen Gillon's point, but we must ensure that the legal aspect is properly dealt with. If it is necessary that the guidance come from the Presiding Officer, that is the way it must be. The guidance should be examined properly in terms of legal processes to ensure that Karen Gillon's concern is addressed. That can be done off-line; the committee can agree in principle to accept the guidance and we can deal with the issue of the title and the extraction—if necessary—of any association with somebody's name.

The Convener: The advice that I am getting in relation to Des McNulty's points is that the entire code of conduct is guidance. Decisions on the guidance regarding any matter that comes before the committee are for the committee to make. The Presiding Officer's guidance—if it is incorporated in the code of conduct—will have the same weight and authority as the rest of the code of conduct. Therefore, if a problem arises with a member in relation to the Presiding Officer's guidance, it will have to be dealt with in the same way and using the same authority as any issue relating to the rest of the code of conduct.

Karen Gillon: I would like clarification of the meaning of "more than 2" in paragraph 17. Does that mean at least three?

Tricia Marwick: It means more than two.

Karen Gillon: But what does that mean?

The Convener: It means three or more.

Karen Gillon: My question is for clarification—it is important to have that on the record.

Tricia Marwick: That point exercised greater minds than ours for quite a long time. All the parties agreed to that wording.

Karen Gillon: I have no problem with that—I just want to know what it means. If I am going to enforce the guidance, I want to know what it means.

The Convener: It means three or more.

Tricia Marwick: It means a minimum of three.

Karen Gillon: Okay—it means a minimum of three.

Lord James Douglas-Hamilton: The words "in at in more" in that paragraph do not make grammatical sense.

The Convener: That matter has been addressed in the motion. I will ask the question again. The clerks have prepared a draft motion that asks Parliament to endorse the paper and agree to it being annexed to the code of conduct. I understand that the motion need not be debated. Are members happy that the motion should be lodged in those terms, in my name and on behalf of the committee?

Members indicated agreement.

Karen Gillon: I do not have a problem with that, except—

The Convener: Yes—except. [*Laughter.*]

Karen Gillon: Paragraph 1 refers to Mr George Reid. I have no problem with the reference to Mr Reid, but I do not want the guidance to be referred to as the Reid principles from now on. They are far bigger than that. George Reid started an important debate, but the conclusion of it is far removed from the start. The line that mentions Mr Reid is unnecessary.

The Convener: It should not be difficult to remove that.

Karen Gillon: It is not a fundamental problem—if it cannot be removed, it cannot be removed, but we need to try and move on and establish that this code of conduct is a cross-party, all-party agreement about how we move forward. We must also establish that it is not the domain of an individual.

The Convener: The committee has accepted the guidance. I will lodge that agreement in the form of a motion to be put before Parliament.

We move now to item 4, which is consideration of a paper to be submitted to the Scottish Parliamentary Corporate Body on the proposed procedure for the appointment of a temporary standards adviser. As agreed at the beginning of the meeting, we will move into private session.

10:10

Meeting continued in private until 10:45.

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