

STANDARDS COMMITTEE

Tuesday 21 November 2000
(Morning)

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CONTENTS

Tuesday 21 November 2000

	Col.
DRAFT REPORT (ALLEGED DISCLOSURE)	625
MEMBERS' INTERESTS ORDER	627
CROSS-PARTY GROUPS	637

STANDARDS COMMITTEE

16th 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

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Jim Johnston

LOCATION

Committee Room 1

Scottish Parliament

Standards Committee

Tuesday 21 November 2000

(Morning)

[THE CONVENER *opened the meeting at 11:07*]

The Convener (Mr Mike Rumbles): Good morning and welcome to the 16th meeting this year of the Standards Committee. Apologies have been received from Karen Gillon. We have three items of business this morning.

Draft Report (Alleged Disclosure)

The Convener: Item 1 on the agenda relates to two complaints regarding the alleged unauthorised disclosure at the weekend of a draft Health and Community Care Committee report. We should not discuss the substance of the allegations or otherwise prejudice any investigation by the standards adviser. The only issue for us is to determine whether the Standards Committee can accept a complaint that does not conform to the format that is set out in the code of conduct for MSPs. Is it acceptable to members for the committee to proceed on that basis?

Members indicated agreement.

The Convener: The clerk has prepared briefing notes for members, which set out the committee's remit in this matter. Members should note that our remit—and, therefore, that of our adviser—is limited to the conduct of members of the Scottish Parliament. The actions of Scottish Parliamentary Corporate Body staff and contractors are outside our remit.

Section 10.2.1 of the code of conduct states that complaints that are made against members should name the member or members against whom the complaint is being made. However, the code gives the committee the discretion to take up complaints that are not submitted in accordance with that section. If the committee decides that it wants to examine the allegations, I suggest that we ask our adviser, Gary Watson, to pursue the investigation. Are members content to refer the matter to the standards adviser and to await a report from him?

Members indicated agreement.

Des McNulty (Clydebank and Milngavie) (Lab): Can the committee also write to the chief executive of the Parliament, inviting his co-operation in the process? That would be helpful.

The Convener: I am sure that we could do that. Do members have any other comments?

Tricia Marwick (Mid Scotland and Fife) (SNP): The adviser will want to speak to a number of people, and it would be in the interests of the Parliament and the committees if that could be done as quickly as possible. We should tell the adviser that we would like the investigation to be conducted thoroughly but concluded in the shortest possible time.

The Convener: I am sure that the committee is agreed on that. We must ensure that all investigations are swift but thorough. The wishes of the committee will be made clear to Gary Watson.

Members' Interests Order

The Convener: Our second agenda item is a draft consultation paper on the members' interests order. At our previous meeting, we agreed to consult members on their experience of the order before setting out to replace it with an act of the Scottish Parliament. Before we consider the draft paper in detail, I seek the committee's views on whether members should be invited to submit their responses anonymously, as envisaged in the draft paper. That would encourage members to be frank in describing their experiences of the order. However, it would prevent the clerks from identifying which members have not responded and from following up any issues with individual MSPs. I would like committee members to comment on whether we should expect anonymous responses to the consultation paper or named responses.

Tricia Marwick: We could do both. We can ask MSPs to put their names to their responses if they want to do so. If they do not want to do that, they should not have to. We should give them the option: it should not be an either/or situation. We should encourage MSPs to put their names to their responses, for the reasons outlined, but if they have a specific issue that they want to bring to our attention and do not want to be identified, we must respect that.

The Convener: Is that the feeling of the committee?

Lord James Douglas-Hamilton (Lothians) (Con): It is inconceivable that an MSP would not want to identify himself if he is putting forward a legitimate point. A constituent might want to raise an issue, which he might want to be dealt with anonymously, but I would have thought that an MSP would not need that protection.

The Convener: Shall we agree to Tricia Marwick's suggestion to accept anonymous returns but to encourage members to identify themselves?

Members indicated agreement.

The Convener: Let us go through the draft consultation paper page by page. I ask members to look at paragraphs 1 to 6 on the first full page of the document. Do members have any comments on them?

Des McNulty: In the context of what we have just agreed, paragraph 6 will have to be amended.

The Convener: It will be changed.

Paragraph 7 deals with paid advocacy. Does anyone have any views on the questions that the paper raises?

Lord James Douglas-Hamilton: It would be helpful if people lodging members' bills knew exactly what they could and could not do. On occasion, charities or voluntary organisations might want a member to lodge a bill to clarify the law. Having a clear guide might be of assistance.

The Convener: What you are referring to is covered in paragraph 10, which deals with complaints against a member who has lodged such a bill and the subsequent inquiry.

Lord James Douglas-Hamilton: Okay.

11:15

Patricia Ferguson (Glasgow Maryhill) (Lab): So far, members' bills have not worried me too much. Most of them have been clear cut and the travail of Mike Watson's bill has now been resolved. On one or two occasions, however, I have been slightly uneasy about the subject of members' business debates, because I have felt that the subject might be tied up with a member's interest. Some of those subjects have been debated and some have not but none of them has crossed the boundary into unacceptability. We might want to raise that issue as well. The problem lies not with the ability to legislate—there is no vote at the end of a members' business debate—but with the fact that such debates raise the profile of an issue.

The Convener: That is a good point.

Des McNulty: A danger of issuing a questionnaire of this type is that people might go through it too quickly and not spend enough time thinking through the issues in depth. We might want to ensure that some of the dilemmas to which the questions relate are properly flagged up. We have gone a long way towards doing so. Paragraph 2 contains the sentence:

"The Committee is keen to ensure that the replacement legislation promotes the highest standards of probity in the Parliament without unduly hindering MSPs in carrying out their Parliamentary duties."

Could we amplify that and put it in bold? The questionnaire must be focused on the need to find the correct balance between high standards of probity and ensuring that MSPs can do effectively what they were elected to do. We must toughen up that aspect.

The Convener: Obviously, we would not send the questionnaire out on its own. It would be accompanied by a covering letter.

I have a question on paragraph 5, which suggests that members send their responses to the clerk to the Standards Committee by a date in January that is not yet specified. Do members have any opinions on when we should expect responses?

Tricia Marwick: If we set a date at the end of January, we would have an opportunity to send members a reminder close to the end of December. Many members will want to consider the questionnaire closely before they respond. I do not know whether, even after the Parliament has been up and running for a year, many members are aware of what the current members' interests order says. Perhaps we could attach it to the questionnaire so that it can inform their replies.

The Convener: That is a good idea.

Tricia Marwick: As well as sending the questionnaire to MSPs, we should inform the business managers directly of the fact that it has been sent out. The business managers could encourage members to respond to the questionnaire through their party groups. The more responses that we get from MSPs throughout the groups, the better the new members' interests order will be. More responses would mean that the new order would meet MSPs' needs in a way that the current members' interests order does not.

The Convener: Thank you, Tricia. That was a good point.

Des McNulty: Patricia Ferguson and I were wondering whether it might be appropriate to hold a seminar or discussion session for members.

The Convener: Yes, that is a good idea and a sensible suggestion. A seminar would be helpful to members. We will look into that and come up with a date.

We will move on to the section headed "Registration and Declaration of Members' Interests", which covers paragraph 11 onwards. I will ask for comments as we go through each paragraph.

On remuneration, which comes under existing categories of registrable interests, there are two simple questions:

"Have you encountered any problems with the requirements on remuneration? Please give details."

and

"Should salaries and other remuneration received from Westminster or the European Parliament continue to be a registrable interest?"

If we are happy with that, we will move on to the question of gifts, which may exercise members of the committee. The first question is:

"Do you think that the current requirements on gifts are appropriate?"

Tricia Marwick: Convener, you know my view on the £250 limit on gifts from spouses.

The Convener: I was waiting for you to come in, Tricia.

Tricia Marwick: Not that I have been so lucky as to receive such a gift, which is why I have not registered one.

I would be interested to hear the views of other MSPs before we reach a conclusion on this issue. I would be surprised if their views on gifts from relatives, friends and spouses differ from mine or from those of Karen Gillon. We must ask MSPs that question. I look forward to receiving their responses.

The Convener: I would like to draw members' attention to the third bullet point under paragraph 12, where we ask:

"Should the threshold be expressed as a percentage of the current Parliamentary salary?"

We should indicate what 1 per cent, or 0.5 per cent, of the salary is.

Are there other points on gifts?

Lord James Douglas-Hamilton: It is unreasonable that gifts from spouses should be registered. Why should it be registrable if a working spouse gives a car to his wife or, for that matter, to her husband?

The Convener: The present procedure requires that to be registered.

I will move on to paragraph 13, on sponsorship.

Des McNulty: I want to raise an issue under sponsorship, although it may have a more general application. The second bullet point under this heading asks members to give reasons for their response. What we want is not so much an opinion poll, with 40 MSPs saying one thing and 30 MSPs saying another, but to get at the underlying arguments. In a sense, we should ask, in bold, members to give reasons for their responses right the way through the consultation paper. The reasons are crucial to the process.

The Convener: That is a good point, which we will emphasise in the covering letter that will accompany the consultation paper. That is the exact point that we are trying to tease out from members.

Are there any comments on paragraph 14, on election expenses? As we go through these points, I will take it as read that members are satisfied, unless someone stops me.

Do members have any comments on the question on interests and shares?

Lord James Douglas-Hamilton: Dates can be quite significant as far as interests and shares are concerned. The market value of shares can fluctuate at different times, even daily, almost like George W Bush's votes.

The Convener: Or indeed Al Gore's.

Lord James Douglas-Hamilton: I just wonder whether there should be a question on the dates of interests and shares; otherwise the matter could become repressive.

The Convener: The only date that could be used is the date of register. It would be somewhat impractical to do things any other way. The clerk advises me that the situation could be reviewed.

Patricia Ferguson: I wonder how practical a question on dates would be. The paragraph in the questionnaire explains that, as the market can be volatile, there could be a very wide difference between the value of the shares when they are registered and the date of the annual review. I am not sure of the relevance of such information in that context.

The Convener: That is a very good point. Speaking as a layman, I think that members can only declare the market value of the shares on the date that they register them. Do members think that that should be reviewed?

Lord James Douglas-Hamilton: An annual review would be a straightforward matter. As I said, the value of shares can go up and down every year.

The Convener: We could have a question on whether there should be such a review.

Patricia Ferguson: I wonder whether we need to review that aspect. Perhaps we should just keep the existing requirement, which is to declare the nominal value of the shareholding.

Lord James Douglas-Hamilton: The existing requirement makes for simplicity and is readily understood. We get into problems when we ask questions about the market value of shares, as that changes.

The Convener: We should bear in mind the fact that we are not trying to reach a solution; we are simply asking the question and leaving the matter open for members to come back to us. We could include a question about whether the matter should be reviewed. We will take advice on that point, if members are happy for us to do so.

Paragraph 16 concerns heritable property and asks members whether they are content with the present arrangements or have any suggestions for adjustments. Do members have any comments?

Members: No.

The Convener: Paragraph 17 deals with overseas visits and asks:

"Do you think that overseas visits in connection with work as an elected Member of Westminster or the European Parliament should be registrable interests?"

Do you think that visits where the Member is representing the Parliament should be registered?

Should visits paid for by another Government be registrable?"

Tricia Marwick: We must also include a category of visits that have been paid for by other organisations.

Mr Adam Ingram (South of Scotland) (SNP): I agree. It is not enough to ask about visits that are paid for by other Governments. For example, organisations such as the Organisation for Co-operation and Security in Europe might invite parliamentarians on overseas visits.

The Convener: We must also be careful about drawing too wide a distinction, because visits that are paid for by organisations could be construed as gifts.

Des McNulty: The general phrase "non-governmental organisations" would encompass those organisations.

The Convener: We will add that to the paper.

Tricia Marwick: I am not sure that I agree with Des McNulty that the phrase "non-governmental organisations" covers every organisation that is not a Government organisation. People have an understanding of what a non-governmental agency is. That does not cover every organisation that might invite MSPs to go on a visit.

The Convener: Is it not the case that the overseas visits representing the Parliament are quite different from other overseas visits? We must be careful about what we are asking here.

Tricia Marwick: We are talking about visits paid for by a source other than the member or their spouse.

11:30

Des McNulty: My understanding of the current arrangements is that members have to register visits overseas other than those that have been authorised explicitly by the Scottish Parliamentary Corporate Body. The current arrangements take account of these different aspects.

Tricia Marwick: It would be useful if, under "Overseas Visits" in paragraph 17, we specified what categories of visits are currently to be registered. We can then ask about categories of visits that could be exempted from registration. Before we make that leap, people need to know what is currently registrable.

Patricia Ferguson: The second question under paragraph 17 asks:

"Do you think that visits where the Member is representing the Parliament should be registered?"

I think that I am right in saying that, technically, only the Presiding Officer and his deputies can represent the Parliament. Other members can go

on trips and attend events as members of a parliamentary delegation. We do not want to get caught up in a wrangle about that.

The Convener: Clearly, we need to state what is registrable at the moment and to give members options as to what they think should be exempted from registration.

Lord James Douglas-Hamilton: I understand that at Westminster the Commonwealth Parliamentary Association is exempted. However, foreign Governments are very much included.

The Convener: We need a list of options, so that members can indicate what they think should be exempted from registration.

Tricia Marwick: If we decide to keep the second box, we should extend the question. We could ask, "Do you think that visits where the member is representing the Parliament or is a member of a parliamentary delegation should be registered?" That would cover Patricia Ferguson's point. It would be up to members to indicate whether they thought that such visits should or should not be registered.

Mr Ingram: As I understand it, if a member is invited to go on an overseas trip, they can apply to the SPCB for that trip to be approved. They do not need to register the visit if approval is given. I do not know if that ties in what Tricia Marwick just said. We are getting confused about this item. As Tricia said, the rule governing approval for overseas trips needs to be spelled out.

The Convener: That is helpful. We need to clarify the situation, indicating what members have to and do not have to declare. We can then set out the options.

Patricia Ferguson: We could simply ask whether there are any other categories that should be registered.

The Convener: We could do it that way and leave it up to members to make suggestions.

Let us move on to new categories of registrable interests. Paragraph 19 is on non-pecuniary interests and invites us to consider the consultative steering group's recommendation that members should be required to register non-pecuniary interests. It goes on to say:

"Currently, some Members choose to register such interests on a voluntary basis in the 'Miscellaneous' category of the Register."

Many members have chosen to do that. The paragraph continues:

"If the Code of Conduct were to be amended to require registration of non-pecuniary interests, it might be considered appropriate that contravention of this requirement should not attract criminal sanction."

There are two questions:

"Do you think that the requirements on the registration and declaration of interests should be extended to include non-pecuniary interests? Please give reasons for your answer."

and

"Should the current approach where Members register non-pecuniary interests on a voluntary basis in the Miscellaneous category be continued?"

Should we have a miscellaneous category anyway?

Mr Ingram: Does that question relate to matters masonic?

The Convener: Gosh. I never thought of that.

Is everyone content with those questions?

Members: Yes.

The Convener: Paragraph 20 relates to spouses, cohabitees and close family members. The CSG recommended the registration of pecuniary and non-pecuniary interests of spouses, partners and close family members in almost all cases. However, that recommendation was qualified by a proposal that the failure to register such interests should not be a criminal offence. The CSG also highlighted some problems that might occur. Paragraph 20 makes the important point that

"extending the Order in this way would also increase the complexity of the Register and encroach on the privacy of family members. Moreover, the rare cases which might be of legitimate public interest could be masked by the sheer volume of entries."

Are there any comments on those questions?

Lord James Douglas-Hamilton: It would be unreasonable for the register to be involved in marital breakdown. Perhaps members at Westminster have a worse record than do members of the Scottish Parliament but, even so, the register should not get dragged into it.

The Convener: It is not what we think of the topic that is important, but whether we are asking appropriate questions.

Tricia Marwick: It is appropriate to ask such questions of MSPs in order to hear their views. I do not want to anticipate those views. We must test how MSPs feel about certain issues, so it is right to ask such questions.

The Convener: Let us move on to pensions. Paragraph 21 says:

"The current Order does not require Members to register or declare the receipt of pensions, although some MSPs choose to do so voluntarily under the miscellaneous category."

That is what I do. The question is:

"Do you think that Members should be required to register or declare the receipt of pensions?"

I know that I do not look like a pensioner. That is a pecuniary interest and is specifically excluded in the order. Do members think that that question is appropriate?

Members: Yes.

The Convener: Paragraph 22 is on the provision of services by members. It reads:

"The CSG Working Group recommended that Members who had entered into agreements which involved the provision of services in their capacity as MSPs, such as a regular newspaper column, should be required to ensure that any such agreement is in written form and a full copy is deposited with the keeper of the Register of Interests. This recommendation has not been implemented to date."

We are asking whether members agree or disagree with that and to give reasons for their answer. Is that acceptable?

Members: Yes.

The Convener: Paragraphs 23 and 24 are on ceased or future interests. The question is:

"Do you think that MSPs should be required to declare registrable interests which have ceased in the previous 12 months?"

Paragraph 25 asks the general questions:

"Are the existing provisions relating to Members' interests clear?"—

I have my own views on that—and

"Do you find the provisions of the MIO and Code helpful?"

I am sure that we will get comments on that. There are a couple of points on other issues, which allow people to comment on anything they wish.

Des McNulty: We should ask specific questions on two subjects. One is, "When did you last check your own members' interests declaration? Was it in the last three months, six months or nine months? When did you last change it?" We should also ask whether people feel that the registration of interests should be simplified wherever possible. Do they have any suggestions on how the process might be simplified? That would be useful.

The Convener: Are there any other comments?

We will circulate the changes by correspondence, rather than addressing them at the next committee meeting.

Patricia Ferguson: Mention was made earlier of this not being an opinion poll, which sparked something else in my mind. If we were to get lots of responses on one particular issue, which we thought were not as well informed as they might be, would we be bound to take on board the majority view? We would have to be clear in the paper that this is consultation.

The Convener: Yes. The covering letter must make it clear that we are preparing for new legislation and that this is our consultation exercise, much in the same vein as a member, committee or the Executive might undertake consultation in producing a bill.

Des McNulty: We also need to read through the questions, or perhaps ask the clerk to do so, to ensure that none of the questions ask simply for a tick-box answer. We are not looking for such answers; we are looking for reasoned responses from people.

The Convener: You made the important point that it is the reasoning behind the responses that we are after, which will inform our opinions when we come to consider the legislation.

Cross-party Groups

The Convener: Agenda item 3 is consideration of applications for recognition as cross-party groups. There are two applications, and members have copies of the forms that have been submitted. We shall take the applications in order.

The first application is a proposal to establish a cross-party group on tourism. Members will note from the papers that the first meeting of this group was not advertised in the cross-party bulletin, as is required in the code of conduct. The clerk has written to the proposer of the group, Maureen Macmillan, who has explained that MSPs and their staff, together with representatives from organisations outside the Parliament, were e-mailed to inform them of the initial meeting of the group. The application predates the clerk's revised guidance notes, which should go some way to preventing such problems from arising in the future. In all other respects, the application appears to conform to the rules on cross-party groups. Do members have any comments on the proposed application?

Des McNulty: No information has been provided on subscriptions.

The Convener: The group is not levying subscriptions. That information should be on the application form.

Are there any other points? If not, are members happy to approve this group?

Members indicated agreement.

The Convener: The second application for consideration is a cross-party group on survivors of childhood sexual abuse. Do members have any comments on the proposed application?

Mr Ingram: Are there not a number of cross-party groups on that subject already?

The Convener: There is a similar group, but it is not identified as a cross-party group for survivors of childhood sexual abuse. The application that we are considering is quite specific.

Lord James Douglas-Hamilton: We all welcome the creation of interest in subjects of this nature, which are sensitive and important, but if there are parallel groups working on, for example, domestic abuse and other forms of abuse, the question arises whether it would make more sense for them to amalgamate rather than set up a separate cross-party group. I have no objection to this application if the applicants wish to go ahead with it, but I wonder whether they have considered coming under a wider umbrella.

The Convener: I have been informed by the clerk that the nearest group is the cross-party

group in the Scottish Parliament on men's violence against women and children, but that the proposed group on survivors of childhood sexual abuse is distinct from that. As far as the clerks are concerned, there is no overlap with other groups.

Lord James Douglas-Hamilton: In that case, we should support it.

The Convener: Are members happy to approve this group?

Members indicated agreement.

The Convener: That brings us to the end of the meeting.

Meeting closed at 11:46.

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