

STANDARDS COMMITTEE

Tuesday 19 December 2000
(Morning)

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STANDARDS COMMITTEE **17th 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)

*Des McNulty (Clydebank and Milngavie) (Lab)

*attended

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Jim Johnston

LOCATION

Committee Room 2

Scottish Parliament

Standards Committee

Tuesday 19 December 2000

(Morning)

[THE CONVENER *opened the meeting at 10:30*]

The Convener (Mr Mike Rumbles): Good morning and welcome to the last Standards Committee meeting in 2000.

We have received apologies from Tricia Marwick and Karen Gillon. Members may wish to know that, due to the reorganisation of the committees, Adam Ingram has submitted his resignation from the committee. I wish to record formally our thanks for Adam's work during the time in which he served on the committee.

Lobbying

The Convener: Our first agenda item is our inquiry into lobbying. The clerks have prepared an issues paper that provides a brief overview of the general themes that emerged from the 29 responses that have been received. A number of those responses are substantive and it is proposed that the clerks produce a more detailed paper for the committee to consider at its next meeting in January. Members will wish to note that many of the issues identified fall outside the remit of the committee. We must consider carefully the manner in which those issues might be pursued.

In order to give some guidance to the clerks in drafting a more detailed paper for January, I suggest that I go through the main themes that emerged in the consultation and invite comments and suggestions from members. We will go through the responses so that the clerks have a better idea of our thinking.

We will go straight to paragraph 6 of the issues paper, where the substantive elements begin. Members will note that concerns remain about the definition of lobbying. Do members have comments on our definition of lobbying?

Patricia Ferguson (Glasgow Maryhill) (Lab): I do not have any comments other than to say that we always accepted that lobbying would be difficult to pin down. We understand the complexities that exist, but I am not sure whether it is possible to tweak the definition in a way that would make a difference. It is probably more advantageous for the committee to trawl for information and to receive and sift all the responses, rather than to try to make the

consultation more focused at this stage.

The Convener: Are members happy with that proposal?

Lord James Douglas-Hamilton (Lothians) (Con): Yes. The issue of definition would become more important if we were to go as far as registration, but it appears that the drift of responses did not support registration as a conclusion. I do not think that there is a problem at this stage.

The Convener: We move on to paragraphs 7 and 8, both of which deal with the respondents' views on the Parliament's commitment to openness and transparency. Do members have comments on paragraphs 7 and 8?

Patricia Ferguson: I accept many of the respondents' points, but I wonder whether those points come under the remit of the Standards Committee. At this stage, I am not sure that it is our job to examine the timetabling of meetings of the Parliament or the work of the Parliamentary Bureau, for example. However, in our new role as a standards and procedures committee, the procedures half of the committee might be interested in those issues.

Is it worth flagging up some of those issues with the bureau? I am sure that its members do not think through the implications of adjusting the plenary timetable at short notice. Even at this early stage, it would be justifiable to flag up those issues, some of which are cultural rather than procedural, in the hope that they will be addressed after the Christmas recess.

The Convener: I am not clear what you mean when you refer to our new role.

Patricia Ferguson: I am not sure that it is the role of the Standards Committee to consider issues such as the timetabling of plenary meetings and how those meetings might be adjusted at the last minute or how the Parliamentary Bureau works. The Procedures Committee might be more interested in those issues. I understand why they have been raised in the context of the work that we are undertaking, but they are not part of our investigation, nor do we have any control over them.

The Convener: Indeed.

Are there any other comments on paragraphs 7 and 8?

I should explain to Des McNulty that we are going through the issues paper because the clerks need our views to give them a steer before they produce a detailed paper in January.

Paragraph 9 deals with some respondents' concerns on the amount of time that is allowed for responses to consultation exercises. Concern was

expressed that such exercises, including our own, are not publicised widely enough. Do members have any thoughts on paragraph 9?

Des McNulty (Clydebank and Milngavie) (Lab): In my view, that is a problem for the respondent organisations, as it is up to them to be sufficiently in command of their own views to be able to respond within a reasonable period of consultation. The idea that we should sit about for four months while the National Trust for Scotland goes through its extensive processes is not conducive to the conduct of our business.

While we note the points that have been made on ensuring that adequate time is allowed for consultation, ultimately the processes of consultation in which we are involved must be governed by the Parliament's timetable rather than by the timetable of the consultees. The Executive might find it worth while to bear that point in mind in relation to its own consultations, which operate in a different time frame from those of the Parliament.

Patricia Ferguson: I agree with Des McNulty. Bills that are coming up for scrutiny are flagged up in the programme for government, which is published well in advance. I do not understand why organisations cannot consider bills, even tentatively, when the programme for government is published. Ultimately, we are under pressure and anxious to get legislation through the Parliament. I would hate for us to delay legislation because we are unable to fit in with someone's time frame. We must work the other way round.

Lord James Douglas-Hamilton: It would be helpful to learn from the clerks the identity of the person who made the point that consultation exercises such as ours are not publicised widely enough, as well as who that person thought had been missed out. Perhaps we could pick that up next time.

The Convener: We will make a note of that.

Do members have comments on paragraph 10, on disclosure of client lists by companies that conduct lobbying work on behalf of third parties?

Des McNulty: The argument in the final sentence of paragraph 10 is correct. There is good practice on disclosure of clients, which we should encourage. If we go for a system that involves lobbying organisations operating under a code of practice, they could spell out how member organisations might operate the process of disclosure. We should confine ourselves to the principle of disclosure and allow lobbying organisations the space to put that principle into effect.

The Convener: I will move swiftly on.

Do members have comments on paragraphs 11

and 12, on the issue of when to lobby? A couple of comments were made by respondents on the right time to lobby the Parliament.

Lord James Douglas-Hamilton: The Educational Institute of Scotland said that, when a bill is published, it would be helpful to have a "clear idiot's guide" to the stages involved in legislation. A clear guide for everyone would be invaluable, although it does not need to be an idiot's guide. The committees will be enormously influential in the Parliament and it is important for outside bodies to know when to send in representations.

Des McNulty: I think that such a guide to the procedures of the Parliament exists. Perhaps the EIS has yet to find it.

The Convener: I have been advised that there is such a guide. We might suggest to the powers that be that it should be sent out with any draft legislation.

Do members have any comments on paragraph 13, which highlights the arguments about a statutory code of conduct for lobbyists?

Lord James Douglas-Hamilton: There is a difference between statutory regulation and statutory registration and it would be useful to have the clerks' advice on the benefits of a statutory registration scheme. It only makes sense for any active lobbyists to be subject to statutory registration; however, statutory regulation goes much further and the drift of responses was in favour of a voluntary code of conduct.

The Convener: I am sure that the clerks can prepare a detailed paper on that issue for our January meeting.

Des McNulty: This is probably the key issue. I am doubtful whether we can enforce a complete statutory regulation regime, in which case registration might be an acceptable halfway house. I am anxious to wait until we have received more responses before making a final judgment. Indeed, some of the responses from the members' questionnaire on lobbying might have a bearing on the matter.

The Convener: You are absolutely right. We must wait until we have a lot more information before making a decision. This note essentially provides a guide to allow the clerks to produce a paper for our January meeting, by which time we should have received all the responses.

Do members have any comments on paragraph 14, which deals with the voluntary code of conduct for lobbyists?

Lord James Douglas-Hamilton: Is it not the case that the Standards Committee should have an input into any voluntary code of conduct that

might be drawn up?

The Convener: The difficulty with that suggestion is that the committee's remit centres on the conduct of MSPs.

Des McNulty: As the responses to this matter depend on the responses to paragraph 13, it is hard to make a clear decision. If we accept that voluntary or statutory registration should be primarily directed at commercial lobbyists, the committee would be particularly interested in the voluntary code of conduct that applied to such lobbyists. Perhaps the guide on how to lobby in the Parliament would be sufficient to establish the rules of the road for other organisations that lobby. We should not be seen as enforcing anything other than the procedures of the Parliament and the rules that apply to members in connection with the myriad different non-commercial organisations. Perhaps we should just supply guidance instead of enforcing the application of a voluntary code.

Lord James Douglas-Hamilton: As any voluntary code should be consistent with the MSPs' code of conduct, it seems that the committee has jurisdiction and should be entitled to consider the voluntary code before it is issued.

The Convener: In as much as the code relates to the activities of MSPs, and not outwith that.

Lord James Douglas-Hamilton: That is right.

The Convener: Paragraphs 15 to 17 relate to lobbying ministers and civil servants, which is an issue that, at first glance, appears to fall outside the committee's remit. I would appreciate other members' views on the matter.

Des McNulty: You are right, convener. All we can do is establish a code of conduct for MSPs and hope that its principles are taken into account in any amendments to the ministerial code. The responsibility for that lies with the First Minister.

The Convener: That is the case. Organisations lobby the Executive as well as MSPs, and I think that the committee agrees that such lobbying lies outwith our remit. Des McNulty's comments were quite apt.

Do members have any comments on paragraphs 18 and 19, which consider the possibilities of developing further guidance on lobbying? I think that we have already covered many of the points.

Des McNulty: As we have said, there is already a guide on legislation. We could consider a supplementary version that would provide guidance to organisations or individuals seeking to lobby the Parliament—indeed, perhaps the Parliament itself could produce such a guide. The system would not be driven by the Standards Committee, but inputs from various committees

would be relevant.

The Convener: I am sure that the committee clerks could feed that suggestion back through parliamentary officials to the clerk to the Parliament.

Lord James Douglas-Hamilton: These organisations, whether they are charities or commercial lobbying organisations, want guidance as to when it would be most effective to make representations, which is perhaps a slightly different issue from that covered by the available information.

The Convener: That has been a useful session. The clerks will now be more aware of the committee's thinking when they prepare the detailed paper for the January meeting.

Standards Commissioner

The Convener: The second item on the agenda relates to our proposals to appoint a standards commissioner, which was one of the key recommendations contained in our fourth report to Parliament. Following the Parliament's endorsement of the report on 23 November, we must now consider how to develop our proposals.

After useful discussions with the Parliament's legal advisers and the non-executive bills unit, the clerks have prepared a short issues paper which has been circulated to members. The paper sets out possible next steps for implementing our recommendation on the establishment of a standards commissioner and seeks the committee's views on four issues that are listed in bold on the final page. I propose that we take each of those points in turn.

First, we concluded at the end of the inquiry into models of investigation of complaints that the standards commissioner should be appointed under an act of the Scottish Parliament, which could be achieved through a committee bill. Are committee members content for our proposals to be progressed in such a way?

Members indicated agreement.

The Convener: That was quick.

The next issue is how we move towards drafting a committee bill. Rule 9.15 of the standing orders lays down the procedures for introducing a committee bill. Indeed, rule 9.15.5 specifically states:

"A proposal for a Bill under this Rule should be made in the form of a report setting out the committee's recommendations as to the provisions to be contained in the Bill, together with an explanation of the need for the Bill. The proposal may also contain a draft of a Bill to give effect to the proposal."

Our report not only clearly sets out an explanation of the need for legislation, but provides sufficient policy guidance for work to commence on drafting instructions, although we will need to address some outstanding policy issues.

We will need to satisfy the requirement at rule 9.15.5 to detail the provisions to be contained in the bill. The issues paper suggests that that could be achieved through the preparation of a short report setting out the provisions to be included in the bill once the drafting instructions are sufficiently well advanced. Are members content to proceed in that way?

Des McNulty: We should proceed as suggested and commission the clerk to progress the matter through the procedures of the Parliament. I understand that there is already some financial

provision for dealing with certain legal aspects.

The Convener: Do members agree?

Members indicated agreement.

The Convener: Although our fourth report contains the bulk of the policy to be included in the committee bill, we will need to address some outstanding issues such as the appointment and removal of the commissioner, which is something that we did not discuss before. Although we can begin work on such issues in January, we might want to give some thought to nominating a member as a reporter to liaise with the clerks in resolving minor policy matters, as everything will come back to the committee anyway. We do not need to decide on that individual or on their specific remit today, but we might wish to give some thought to the issue, especially over the Christmas holidays.

Des McNulty: I nominate Lord James Douglas-Hamilton to liaise for the committee.

Patricia Ferguson: I second that.

Lord James Douglas-Hamilton: Thank you. I will bring everything back to the committee.

The Convener: Finally, I suggest that we commission a paper from the clerks reviewing the options for appointment and removal of the commissioner, for our consideration in January. Are members agreed?

Members indicated agreement.

Cross-party Groups

The Convener: Our final item this morning is the consideration of applications for recognition as a cross-party group. We have only one application for a proposed group on Scottish traditional arts. Do members have any comments on the application?

Patricia Ferguson: Although I am perfectly satisfied with the application, the group might have missed something. The very last part of the explanation of the group's purpose mentions raising

"specific issues of concern with the Scottish Executive".

I am quite surprised that the group wants to limit itself to such a strict remit. I would have thought that it would have wanted to raise issues of concern with not only the Scottish Executive, but agencies, MSPs and a whole host of others. Perhaps we should check that point with the group.

The Convener: Do members feel the same?

Des McNulty: Yes.

The Convener: Does the committee want the application to come back before us?

Members indicated agreement.

Lord James Douglas-Hamilton: What wording would Patricia Ferguson prefer instead?

Patricia Ferguson: I was not making any suggestions about that; I was simply wondering out loud whether the group wants to limit itself so much. There are many other groups and individuals that it could talk to or lobby.

The Convener: We can draw Patricia Ferguson's point about the restrictive remit to the group's attention when we write to it. Are members agreed?

Members indicated agreement.

Lord James Douglas-Hamilton: Can we approve the application in principle?

The Convener: Are members agreed?

Members indicated agreement.

Des McNulty: I take it that we will all be invited to the first concert or ceilidh.

The Convener: Thank you, members.

Meeting closed at 10:53.

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