STANDARDS COMMITTEE

Wednesday 28 March 2001
(*Morning*)

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STANDARDS COMMITTEE
5th Meeting 2001, 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)
*Mr Frank McAveety (Glasgow Shettleston) (Lab)
*Mr Kenneth Macintosh (Eastwood) (Lab)
Kay Ullrich (West of Scotland) (SNP)

*attended

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Jim Johnston

LOCATION

The Hub

Scottish Parliament

Standards Committee

Wednesday 28 March 2001

(*Morning*)

[THE CONVENER *opened the meeting at 09:30*]

The Convener (Mr Mike Rumbles): Good morning and welcome to the fifth meeting in 2001 of the Standards Committee. We have received apologies from Kay Ullrich.

Before we move on to our main business, we must consider how to deal with item 4 on the agenda. It has been our practice to consider draft committee reports in private. Do members agree to continue that practice and to consider our draft report in private?

Members *indicated agreement*.

Lobbying

The Convener: Our next agenda item relates to our lobbying inquiry. Following our two oral evidence sessions, the clerks have prepared an issues paper that summarises the themes that emerged.

I suggest that we have a general discussion about the evidence that we received and decide how to develop our inquiry. In particular, it would be useful for members to consider whether they would like to take further evidence or whether they feel that we have sufficient information to be able to begin to formulate our thinking on the various policy options that are open to us.

Tricia Marwick (Mid Scotland and Fife) (SNP): We would never have been able to speak to everyone we wanted to speak to. However, we managed to get evidence from the broadest spectrum possible by speaking to representative bodies. We need not take further evidence; we have taken enough to enable us to start forming views about where we go from here.

Lord James Douglas-Hamilton (Lothians) (Con): I agree with Tricia Marwick that we have sufficient evidence from representative bodies from across the spectrum.

I will make one or two points that might help the clerks to prepare the case for our decision. It would be invaluable if they could prepare a précis stating the strength of the case for a voluntary code, giving the pros and cons for one and the weight of the representations. It follows that, if a précis for a voluntary code is prepared, one should also be prepared for a compulsory code. I realise that there is much less support for a compulsory code—at least, that is what I believe—but it would be useful to have an objective assessment of such a code.

It is important that we have an accurate and objective assessment of whether the bodies concerned would be content with one overall voluntary code or whether they would prefer a number of separate voluntary codes, with one for each body. My impression was that there was a strong preference for one code, but it would be helpful to have a detailed assessment of whether my impression is correct.

It would be useful to have the pros and cons of, or the strength of the case for, registration, with an analysis of the views of those who supported registration and of those who did not.

Finally, I sense that there was considerably less support for statutory regulation than there was for registration. It would be helpful to have a brief assessment of each option in the form of a

précis—perhaps just on one, two or three pieces of paper.

Patricia Ferguson (Glasgow Maryhill) (Lab): I do not disagree with anything that Lord James said. However, I would also like us to consider what sanctions would be open to the committee and the Parliament, depending on which route we decided to take.

I would also like us to consider a third option: that we do nothing. Although I say "do nothing", I will qualify that and say that we should perhaps do something. We should make a declaration of the conduct that we expect from people who come into contact with the Parliament. We should also point out that the code of conduct places the onus on MSPs to conduct themselves absolutely appropriately.

Another issue came out in the evidence: for some organisations, we are becoming a welcome burden. I realise that outside organisations are not part of our remit but, at a later stage, we could discuss—perhaps with the Procedures Committee—how best to help them to be part of the process. The last thing that we want to do is to exclude people merely by asking them to come and give evidence; if that becomes such a burden that they cannot participate, we defeat our own purpose. In some ways, that concerned me more than the other points that were made in our evidence-taking sessions.

The Convener: Patricia Ferguson said that we should perhaps do nothing and then qualified that statement; however, the main issue is whether—I think that this is what Patricia Ferguson meant—we move away from our current focus, which is on MSPs. That needs to be discussed in addition to the other options that have been mentioned.

Mr Kenneth Macintosh (Eastwood) (Lab): I am sorry for being late. Are we having a general discussion or are we just considering whether to take further evidence?

The Convener: We are deciding whether we need to take further evidence. So far, the consensus seems to be that we have sufficient evidence and that the clerks should now concentrate on producing a policy options paper for our next meeting. I have opened the floor to comments on that. You can say whether you think that we need to take more evidence, or you can raise the issues that you believe the clerks should present to us at our next meeting.

Mr Macintosh: I agree with much of what my colleagues have said. We do not need any more evidence at the moment, although, depending on what the committee decides to do, we might need to take further evidence at a later stage. I do not want to prejudge any decision but, if we settle on a regulatory or registrative process, the detail will be important and I suspect that we will need to take further soundings with outside bodies about how such a process would work in practice. However, I am not convinced that we will necessarily need to opt for regulation or registration. At the moment, I suggest that we take no further evidence.

I agree with Patricia Ferguson that, although the focus of the inquiry has been on whether there is a need to regulate and register lobbyists, the evidence has shown the importance of the Parliament's being accessible to groups that might not have had good access. Rather than being passive recipients of lobbying, the Parliament should seek out lobbyists—if that does not make members feel uneasy. We should seek views and information from the less vocal members of our communities and the less powerful interest groups. More work is required in that area.

If we were considering going down the regulation and registration route, we would have to discuss the issues in more detail. I am beginning to form a view on the principles, but the practice gives me greater problems. I would welcome concrete proposals. I suggested at a previous meeting that we could use the £5,000 threshold at which people have to declare political donations. If we worked out a proposal based on that threshold, that would give us something practical, rather than theoretical, to discuss. It would be good to get down to the detail and work out what would happen if we introduced a specific financial threshold over which people had to declare interests. I would welcome specific proposals, if that is not too much to ask. They would not have to be worked out in huge detail. There are many implications.

I do not want to prejudge the issue. I have my own views on what might be necessary, but we heard evidence of the difficulty that we might have in dealing with law firms that have public consultancies, owing to the confidentiality agreements that they enter into with their clients. Further work needs to be done on that issue.

It is difficult to have these discussions without prejudging the issue. The evidence that we received from the full-time professional lobbying organisations was that they were open and transparent. The other organisation had slightly more difficulty. More work is needed to explore what kind of system we could put in place and whether a law firm would be able to comply with it.

The Convener: You have flagged up a series of issues. Should we proceed to take evidence along those lines?

Mr Macintosh: We have got enough information from the evidence sessions to be able to have a full and proper discussion of the route that we might want to go down. We could go down a

regulation and registration route or a route that is based on the current situation but that encourages greater access and puts more of the onus on MSPs. There is a range of options.

Each of the routes requires further work. If we were to choose to go down one of the routes, we would have to take further evidence at that stage; at this stage, however, we should have further discussion among ourselves. As I said, I would like to hang the discussion on specific points, such as the level of the threshold and the difficulties with law firms or other big firms that employ in-house public consultancies. Our decision to go forward will hang on those issues.

The Convener: You are content that we proceed as directed, with the proviso that we can call for more evidence if we decide to go down a specific route.

Lord James Douglas-Hamilton: Ken Macintosh's suggestion makes a lot of sense. If, for example, the committee was minded to go down the route of having one overall voluntary code, it would be necessary to consult on how best that should be done, because no draft code exists. He has made points that are relevant for the next stage, once we have come to a view on what the recommended route should be.

09:45

Tricia Marwick: We can sign off a number of matters now. Patricia Ferguson commented on how we should engage with organisations and groups that are currently not engaging with the Parliament. Simultaneously with this inquiry, we could make contact with the Procedures Committee about how we can create better access to the Parliament. We probably do not need to have further discussion on that; we can perhaps make progress on it.

Ken Macintosh suggested a £5,000 threshold. My view is that that should not be the test and that £5,000 is not an appropriate threshold. Organisations and individuals have a democratic right to lobby the Parliament; we should not suggest that they do not have that right. However, there is a distinction between individuals and organisations that lobby us on their own behalf and commercial organisations that are engaged to do so on behalf of others. That is the clear dividing line. We should consider the difference between commercial organisations and other individuals and organisations. The issue is not the financial threshold, but whether organisations are lobbying on their own behalf or on behalf of others.

We must carefully consider registration and regulation. The evidence, as I understand it, is that voluntary codes do not work. Whether the codes are from a commercial or an umbrella organisation, the evidence is that they will work only when the sign-up rate is almost 100 per cent. Regardless of whether the code is voluntary or statutory, there has to be some monitoring of its effectiveness. We may decide either that it is better for organisations to monitor themselves and their client organisations or that the Parliament should do it on their behalf. We need to explore that area further.

Mr Frank McAveety (Glasgow Shettleston) (Lab): By and large, the evidence is fairly thin on all sides. We have considered the matter from totally different angles, which is why it is suggested that there are separate issues here. The issue of how the voluntary and third sectors participate is a legitimate one, but there are public concerns about the lobbying activities of commercial organisations. We should separate the two issues. I am not totally convinced about what the voluntary sector says about barriers. The barriers that it is concerned about are not necessarily ones that we would consider from the point of view of standards; they are more to do with the accessibility debate. That is something that, tangentially, we might want to argue about.

I thought that the Stirling media research institute was at least trying to identify public concern and to act on it, but it did not furnish us with enough international evidence of other regulatory frameworks that have made a difference. That information may exist—I may have missed it when I was reading at the weekend—but it would be helpful if the institute could give us the further information that it indicated it could get for us, so that we can arrive at a conclusion. I am edging towards understanding the institute's concerns, but the information that I have seen so far has not convinced me.

Ken Macintosh is right about law firms with public consultancies and the confidentiality contained in that legal framework. We need to address that as part of our overall assessment. We could consider the voluntary sector separately from the commercial operators, but there is an issue about those operators utilising the voluntary sector to subvert the regulatory framework under which they operate.

The Convener: If members are content, the clerks will prepare the issues paper for our next meeting, setting out the policy options that we have just discussed. Bearing in mind the points that have been raised, we can, if we decide to go down a particular route, take further evidence as we proceed.

Cross-party Groups

The Convener: Our third item of business this morning is consideration of applications for cross-party group status. Do members have any comments on the first application, which is for a cross-party group in the Scottish Parliament on chronic pain?

Lord James Douglas-Hamilton: There is now a list of 37 cross-party groups, a considerable number of which deal with health issues. We might soon reach a situation in which there is difficulty in booking rooms because there are so many groups. The next application for a cross-party group that we will consider also centres on health issues. Although in principle both subjects are altogether worthy of cross-party groups, I wonder whether they should be the focus of individual groups or whether the proposed group should be merged with others. As for this application, I think that we should find out whether the sponsor would accept amalgamating the group with the group on palliative care, as the issues overlap to some extent.

Tricia Marwick: I have raised—and will raise again—my concerns about the number of cross-party groups that are being established. As Lord James said, there are already 37 such groups, and we are considering another two today. I have been concerned about the attendance at some of the groups' meetings; indeed, I have found it difficult to attend meetings. We have only three slots a week when we can attend cross-party group meetings—Tuesday evening, Wednesday afternoon and Wednesday night—and there have been concerns that we are not giving the groups the support that the outside organisations involved might expect. We must examine that matter very carefully.

This is a matter not just for us but for MSPs in general. Although we all want to support organisations, it will not serve any of us well if organisations come from the length and breadth of Scotland to meet only the MSP who is the convener of the group and one other member.

There are clear crossovers between the proposed cross-party group on chronic pain and the cross-party group on palliative care. I suspect that we do not need two such groups and I suggest that, as a way forward, we invite the convener of the palliative care group to meet the sponsor of the chronic pain group to find out whether the two groups can merge and work together on issues that are common to them both. However, if enough MSPs want to establish a cross-party group on chronic pain—and if such a group conforms to all the rules—the Standards Committee should not stand in its way.

Mr Macintosh: I agree with many of Tricia Marwick's comments. We should address the wider issue about the groups as a whole. However, there are many other issues to address. For example, if the groups continue to multiply in this way, they could bring the whole system into disrepute, which would not reflect well on the Parliament in general.

We have not yet established any criteria for distinguishing between what is and what is not a justifiable reason for a cross-party group, and this application provides a good example of that problem. Although there is an element of crossover with palliative care, I am sure that members interested in the issue of chronic pain would maintain that the focuses of the groups are different.

I would be happy to approve both groups, on the basis that they conform to the rules. We have no grounds, other than our own common sense, for suggesting that they should talk to each other. Is it not the case that they have already talked to each other? A couple of members are on both groups.

I am happy to approve the groups, but we could ask the Procedures Committee to address the issue. Cross-party groups are part of the structure of the Parliament, but they are not necessarily working in the way that was intended. The Procedures Committee could include cross-party groups in its current investigation into the principles on which the Parliament was founded.

The Convener: The regulation of cross-party groups is fairly and squarely within our remit, so the issue is up to us. If members are happy with the suggestion, I could ask the clerks to review how active the 37 cross-party groups are. At the moment, all they have to do is present us with an annual report. Reviewing the activity of cross-party groups would be helpful when we discuss issues such as crossover remits. Would members be content with that?

Tricia Marwick: That is a good idea. It is up to the Standards Committee to monitor the groups to ensure that they are working as intended. It would be useful to write to the convener or secretary of each group, asking how often they have met in the past year—if they have been set up that long—how many MSPs have attended each meeting and how many outside organisations or others have attended.

The Convener: We shall do that.

Lord James Douglas-Hamilton: I note that there is a cross-party group on older people, age and aging and a cross-party group on carers. For much of the time, those groups will be considering the same issues, although I appreciate that carers can care for people who are not elderly, so the groups do not completely overlap. Where cross-

party groups are considering similar issues—if not the same issues—there could be a case for amalgamating them. That point should be put to them because, if there is a terrific multiplicity of groups on a host of smaller subjects, the groups will lose their clout.

Before we approve the proposed group on chronic pain too readily, it is only fair to put the case to the sponsors that it may be appropriate to amalgamate that group with the cross-party group on palliative care. If they come back to us and say no, with clear reasons, I have no objections in principle to approving the application, but they ought to consider that option, even if only to reject it.

The Convener: When we write to the secretaries of the groups, we will include the list of cross-party groups and suggest that they consider amalgamating with some of the other groups.

Mr McAveety: Until we have an overview of how active the groups are, it is hard to judge whether the new applications are needed or whether they can be accommodated in the existing groups. There are three or four groups that could amalgamate if the individuals who set them up were courageous enough to concede that there should be an amalgamation; however, given the difficulty that we have with Scottish football clubs amalgamating even when the case for it is self-evident, we may have the same problem with cross-party groups. For example, this week's cause célèbre is the rape court case. There are probably three groups whose members would be concerned and could take up that issue.

We need a consensual approach on amalgamation. We should first take an overview. We should say that we are minded of the commitments that people have on their time and that, although we are not saying that any groups are invalid, we want to examine whether the number of groups can be reduced. The evidence on the activity of groups might compel people to take action. People find it easy to set things up and harder to wind them down.

10:00

Tricia Marwick: When a cross-party group is being set up, it is easy to give support. I am a member of several cross-party groups, because they are worthy and involve organisations with which I wish to be associated and which I want to do what I can to help. The difficulty is in attending meetings. I suspect that I am not alone in having that difficulty, which is why I am concerned.

Most of that concern is based on my wish to be associated with several groups and on my experience of helping the former all-party Scottish housing group at Westminster. It was frustrating for voluntary organisations to be involved with that group. Their representatives went to a great deal of trouble flying down to London, but when they turned up at the meetings perhaps only two members of Parliament would be present.

I know the effect that that experience had on the organisation for which I worked, which is why I am concerned about the number of cross-party groups that are involving people from outside the Parliament. Those people will hope and expect to meet MSPs, and we will not be there. That worries me. We must consider the position of the cross-party groups. Perhaps we could have two systems. Some groups could simply register support for organisations and others could involve active membership. We must be clear about what giving our support to a cross-party group means. I am concerned about the effect on the Parliament's reputation of not bringing those concerns to members' attention as quickly as we can.

I suggest that we proceed with what was proposed for the cross-party group on chronic pain, perhaps by asking the conveners involved to consider what has been suggested. I reiterate that the cross-party group on chronic pain meets the criteria for a cross-party group, so there is no reason not to approve it. However, we could suggest that there might be a better way forward. There is no reason not to approve the group on myalgic encephalomyelitis. I propose that we approve it.

The Convener: We started by considering only the cross-party group on chronic pain, but now we will consider the group on ME, too. After hearing what members have said, I suggest that we launch a review of the activity of cross-party groups, with a view to asking their sponsors to consider amalgamation. I will write to Dorothy-Grace Elder with members' suggestions but I point out that her group meets the criteria. I am conscious that we have written to Dorothy-Grace Elder about another cross-party group.

I am not clear about the proposal for a group on ME, because we have not discussed the issue. Would it be appropriate to write to John McAllion, who sponsors the group on ME, to ask him to consider amalgamating his group with others?

Lord James Douglas-Hamilton: If we received an application for a group on multiple sclerosis, would that subject be sufficiently close to that of the proposed group to allow amalgamation?

The Convener: No. I think that the subjects are different. However, that does not prevent them from being linked. The concern is about the growth in the number of cross-party groups and the dissipation of support from members.

Patricia Ferguson: We have no option but to support the establishment of the group on ME, but

I think that we should proceed with the group on chronic pain as suggested. I realise that the task that I am about to propose would be fairly onerous for the clerks, and I am loth to ask for it, but I think that it might be worth while. Concerns relate not just to how many people turn up for meetings, but to forward work plans. What do groups plan to do and how will they implement their plans? That may be how we could find out about opportunities for amalgamating groups. I realise that we receive annual reports, but they cover what has happened. We would be most interested in what the groups plan to do. It might be useful to obtain that information, if possible.

Lord James Douglas-Hamilton: We could approve the group on ME and say that we are sympathetic in principle to the other group and are minded to approve it, but that we would be grateful if its supporters considered whether there is a sufficient case for amalgamation with the cross-party group on palliative care.

The Convener: As members are content, we will proceed on that basis.

Our final item of business is the consideration of a draft report that sets out our proposals for a committee bill to establish a standards commissioner in the Scottish Parliament. As agreed at the beginning of the meeting, we will move into private session. I ask the public, press, official reporters and broadcasting staff to leave the meeting.

10:06

Meeting continued in private until 10:36.

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