

# **STANDARDS COMMITTEE**

Wednesday 7 November 2001  
(*Morning*)

Session 1

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## STANDARDS COMMITTEE

### 14<sup>th</sup> 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

#### THE FOLLOWING ALSO ATTENDED :

Vicky Haylott

Tommy Sheridan (Glasgow) (SSP)

#### CLERK TO THE COMMITTEE

Sam Jones

#### SENIOR ASSISTANT CLERK

Jim Johnston

#### LOCATION

Committee Room 3



## Scottish Parliament

### Standards Committee

*Wednesday 7 November 2001*

*(Morning)*

[THE CONVENER *opened the meeting at 09:36*]

**The Convener (Mr Mike Rumbles):** Welcome to the 14<sup>th</sup> meeting in 2001 of the Standards Committee. We have received apologies from Kay Ullrich and Lord James Douglas-Hamilton.

### Item in Private

**The Convener:** Our main item of business today concerns a complaint against Tommy Sheridan about an alleged breach of annexe 5 of the "Code of Conduct for Members of the Scottish Parliament". In considering the complaint, we are following the four-stage investigative procedure set out in our models of investigation report, which was agreed by the Parliament in November last year.

The committee carried out an initial consideration of the adviser's report into the complaint in September and agreed to explore some of the issues raised with Tommy Sheridan, who indicated that he wished to make oral representation to the committee.

Once we have heard from Tommy Sheridan, the committee will resume its consideration of the adviser's report. Under our investigative procedure, that should take place in private. We will then consider in public session whether there has been a breach of the code of conduct. If there has been, we will decide whether it is appropriate to recommend any sanctions to Parliament. Do we agree to follow that course of action?

**Members** *indicated agreement.*

## Complaint

**The Convener:** I welcome Tommy Sheridan to this morning's meeting. The complaint that the committee is considering is in relation to annexe 5 of the code of conduct, which sets out the principles governing relationships between MSPs and clarifies for members, constituents and other bodies how constituency and regional MSPs should interact when dealing with constituency and other cases. The annexe was endorsed by the Parliament and incorporated into the code of conduct in July last year. Complaints against members in relation to annexe 5 are referred in the first instance to the Presiding Officer. If he is unable to reach an informal resolution, the matter is referred to the Standards Committee.

The complaint that we are considering this morning relates to an allegation from Rhona Brankin that Tommy Sheridan intervened in a constituency case outwith his region and without securing her prior agreement as required by paragraph 4 of annexe 5 of the code of conduct, which states:

"No MSP should deal with a matter relating to a constituent, constituency case or constituency issue outwith his or her constituency or region (as the case may be), unless by prior agreement."

As I have stated, once we have heard from Tommy Sheridan, the committee will continue its consideration of the adviser's report in private. We will then consider in public session whether there has been a breach of the code of conduct. I invite Tommy Sheridan to make a statement.

**Tommy Sheridan (Glasgow) (SSP):** Thank you. I wrote to you that I intended to make a statement. Since hearing about the appeal and the investigation, Vicky Haylott has insisted at considerable inconvenience on travelling a great distance from England to be here. Therefore, I would prefer Vicky to make a short statement. I will then take questions from members. I would rather give my right to make a statement to Vicky, who is the subject of the complaint.

**The Convener:** I hear what you say, but Vicky Haylott is here as an adviser to you. You have had opportunities to comment in writing on the complaint and you have the opportunity to respond to it today. The role of the adviser whom you have brought is to support you. She may address the committee only with my agreement and on matters of procedure. We must operate within that advice. However, the opportunity is still open to you to make a statement.

**Tommy Sheridan:** I beg the indulgence of the committee. I know that the committee is following procedural rules and that I have the right to make

a statement. I want to give that right to make a short statement to someone who is integrally involved and is the subject of the whole affair. She has travelled a great distance and ignored my advice—she was determined to be here. She felt that that was important. I would prefer the committee to listen to a short statement by Vicky. Members can then question me. I do not want to make a statement.

**The Convener:** It is clear that you do not want to make a statement. However, Vicky Haylott is not the subject of the complaint—you are the subject of the complaint.

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** Convener, were you approached prior to today with a request for Ms Haylott to make a statement?

**The Convener:** No.

**Mr McAveety:** So this is the first time that you have heard such a request.

**The Convener:** Yes.

**Mr McAveety:** The member did not make an informal request.

**The Convener:** That is correct.

I want to move away from procedural issues. We have given Tommy Sheridan the opportunity to make an opening statement. I understood that he was going to do so, but that is obviously not the case. He seems to be content with that, but I will again give him the opportunity to make a statement.

**Tommy Sheridan:** Your answer to Frank McAveety is not fair. When the office was contacted, it was made clear that Vicky would come along as a witness.

**The Convener:** I want to stop this. You were advised that you could bring an adviser to the committee to help you with the evidence.

**Vicky Haylott:** I am here to support Tommy Sheridan, but I am not allowed to make a statement.

**The Convener:** I am sorry. Members may ask Tommy Sheridan questions.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** In July last year, the Parliament approved annexe 5 of the code of conduct, which sets out the relationship between MSPs. I recall that MSPs unanimously agreed to it and that Tommy Sheridan voted for it. You raised no objections to it at the time, Tommy.

**Tommy Sheridan:** I have absolutely no problem with a code of conduct. As I said in my letter, there are occasions—and this is certainly one of them—in which exceptions are more than justified. If

members study the details of the case, I hope that they will conclude that it is exceptional. Vicky Haylott was advised to contact her MSP and did so. She felt that she was not suitably supported by her MSP and subsequent events proved that to be the case. She was threatened with eviction by Midlothian Council. The young woman's eviction was stopped by neighbours and friends, but, unfortunately, at 7 am, she was dragged naked from her bed. My crime was to phone the police at around 7.15 am to ask them to intervene on behalf of Vicky, not on behalf of the sheriff officers.

I agree that the code of conduct is there to guide us and that we should abide by that code to the best of our ability. However, I think that there will always be situations where the code of conduct is not up to the task of providing representation for citizens in Scotland. I think that the example of this case clearly highlights that.

**Tricia Marwick:** Have you, at any time between July last year and today, requested the Standards Committee to reconsider the code of conduct, particularly annexe 5, and whether the code meets requirements or needs to be amended in some way to allow MSPs to intervene in such situations as you have described?

09:45

**Tommy Sheridan:** I have done so only through my replies to you, Tricia. If you read the replies to the letters that have been written to me, you will see that I have suggested that humanity comes higher than a code of conduct. I think that basic human decency dictates the actions that we should take as elected representatives when faced with a situation with the peculiar circumstances of this case. In his report, the standards adviser notes the particular set of circumstances. I think that the code of conduct was not up to the task in response to that set of circumstances.

**Tricia Marwick:** Notwithstanding this investigation, will you make direct representations to the Standards Committee, asking it to consider the code of conduct and decide whether any changes are required? Would you like us to do that?

**Tommy Sheridan:** That really depends on what the committee concludes. If the committee concludes today that members should follow the code of conduct at every possible opportunity, but recognises that there is some elasticity, in that situations will arise where the code of conduct is not up to the task, that would show that there is flexibility in the code of conduct. If, despite the particular circumstances that are noted in the adviser's report involving the way in which Vicky went about things, the committee concludes otherwise, that would not show flexibility in the code.

It was not as if Vicky came to me first. If she had, it would have been incumbent on me to get her to approach her local MSP, as I always try to do when someone approaches me first. Vicky came to me latterly, having exhausted that route. I hope that the committee will conclude that, although on paper I am guilty of a breach of the code of conduct, that does not necessitate a punishment in this case, on the basis that the code has to be flexible enough to recognise the circumstances of particular cases.

**Mr McAveety:** Could you define humanity for me?

**Tommy Sheridan:** Sure, Frank. If someone gets a call just after 7 in the morning to be told that there are three sheriff officers—

**Vicky Haylott:** It was seven.

**Tommy Sheridan:** Sorry—there were seven of them. If someone is told that seven sheriff officers and a number of escorting police officers are on their way; if those people then break into the home of that young woman and drag her naked from her bed with a quilt around her body; and if she asks, “Can you do anything?” I think that I would be less than human if I did not try to contact the chief constable to ask him to intervene on Vicky’s behalf, rather than on behalf of the sheriff officers.

I subsequently phoned Midlothian Council and Rhona Brankin’s office to inform her that I had made that contact. This would be my definition of humanity: if I had not done anything, it would be inhumane.

**Mr McAveety:** Is humanity divisible? From your contribution today, Tommy, it sounds to me that you have spoken about humanity as if it is an absolute—although I do not disagree with you.

**Tommy Sheridan:** I am asking the committee to consider the circumstances of the case. If my defence was that the code of conduct did not deserve to be abided by or recognised, I think that the committee’s attitude would be easier—it would be more absolute. I repeat: I am asking you to recognise the specific circumstances of the case, which is why an adviser’s report was produced.

I ask you to consider my response all along. Under the common definition of humanity—Frank McAveety agrees with me on that—if a letter arrived on my desk on 19 March telling me that a young woman would be evicted on 27 March, I would have been accused of acting in a less than humane way if I had not written immediately to Midlothian Council to complain.

**Mr McAveety:** So you agree that humanity is not divisible.

**Tommy Sheridan:** Situations are sometimes easier. If Vicky Haylott had contacted me as the

first port of call, it would have been easier to say, “Look, Vicky, I’m not your local MSP. You’ll have to get in touch with your own member.” My office regularly writes letters and e-mails to people to tell them, “Look. This is your local MSP. You need to contact them first.” Vicky contacted her local MSP. She came to me because she was not satisfied with that representation. I hope that you see my intervention from that point of view.

**Mr McAveety:** A statement that you made in a letter to the Standards Committee troubles me. You said:

“In my judgement humanity occasionally takes precedence over protocol.”

I thought that we had just engaged in a discussion that suggested that an attitude of humanity was indivisible. It strikes me that your position on the matter is inconsistent. I am concerned about that lack of consistency.

**Tommy Sheridan:** What is your point?

**Mr McAveety:** I thought that I had just made my point clearly. We received a letter that said that humanity can occasionally take precedence over protocol, but my understanding of your words this morning is that considerations of humanity are almost an absolute. I think that there is a contradiction that you could reflect on. The Standards Committee must reflect on the protocol and code of conduct that have been set down. That is our dilemma. Sometimes we have to address issues from within our operating procedures.

**Tommy Sheridan:** If you read the whole of my letter, you will see that it is written in an angry tone. The sentence that you just read out refers to that anger. The circumstances of the case are that I intervened on behalf of a young woman who was dragged from her bed at an unearthly hour in the morning and evicted by seven sheriff officers and policemen; I was then asked to reply to an MSP who, on the same day as that eviction, wrote a letter to complain about me phoning the police on the woman’s behalf.

The letter that you have in front of you is an indication of my anger at the fact that I have to appear before the Standards Committee to answer questions on a case such as this. If the matter were less serious and clear-cut, there would be more of a case to answer. However, I question the conduct of an MSP who, on the day that a constituent was dragged from her bed and evicted, decided that the important thing to do was to write to the Standards Committee to complain about me.

**Mr Kenneth Macintosh (Eastwood) (Lab):** If the constituent was unhappy with her MSP’s representation, why did you not contact the MSP

when her constituent contacted you?

**Vicky Haylott:** There was no time.

**The Convener:** Excuse me. The question was directed at Tommy Sheridan.

**Tommy Sheridan:** I have described the situation to you. On my way to Edinburgh on the morning of the eviction, I received calls from Vicky Haylott's neighbours on her behalf—I think that one neighbour was her relative—to tell me that the sheriff officers were sitting on her bed, trying to persuade her to leave the house, despite the fact that she had no clothes on and that the police were protecting the sheriff officers. At that time in the morning, I phoned the police. I subsequently phoned the MSP—at about 9 am or 9.15 am, I think—to do exactly what Mr McIntosh has just said that I should have done. There was no one there, so I left a message. I have since read that the number that I left was unobtainable, which I find incredible, because everybody else got me on that number that morning.

That was the action that I took in this case. As I said in response to other questions, if you had been faced with a similar situation in a constituency that was outside your area and had not done what I did, people would have questioned your actions.

**Mr Macintosh:** Is it normal for you to be approached to take action in constituencies that are outwith your region?

**Tommy Sheridan:** Undoubtedly, because of my profile as the leader of a small party, I get contacted from all over Scotland. When the Parliament was established, we tried to take up cases because people contacted us. Over the past 12 months we have tried to advise people not to come to us first. When people contact us, we pass the case on to various MSPs. I have letters from MSPs thanking us for passing on cases and I recently discussed cases with Pauline McNeill and Margo MacDonald. There are cases in which we proactively encourage people who come to us to go to their local MSPs first. The peculiar situation in this case is that the individual concerned had done that. I was left with no choice but to intervene.

**Mr Macintosh:** I am slightly concerned that you are setting yourself up as a court of higher authority over other MSPs. The rules exist to stop duplication of effort and to stop MSPs writing to local authorities. Constituents go round different MSPs and a multiplicity of intervention can result in a waste of time and effort. You suggested that, on top of that, if a constituent is unhappy with an MSP—no matter where they are in Scotland—they can come to you and you will take up their case. As it is, a constituent has a choice of the eight MSPs in their region. Do you think that if another

member's constituent is unhappy with their representation, they can come to you and that you have a right to represent them, not as Tommy Sheridan the individual, but in your publicly elected office as an MSP?

**Tommy Sheridan:** I tried to indicate earlier that we should follow the protocol and code of conduct to the best of our ability. That means encouraging individual Scottish citizens to pursue their constituency MSP or one of their regional list MSPs.

Citizens sometimes feel that they have not secured proper representation. I was a councillor for 10 years, so I know that there are occasions when people do not see eye to eye about a case, which can become a problem. It is wrong of us to exclude Scottish citizens from the 129 elected MSPs.

I do not think that I am a higher authority by any manner of means and I do not think that I offer better representation than the other 128 MSPs in the Parliament. However, if a Scottish citizen who has already approached their constituency MSP approaches me, I would be wrong not to try to help them. That a Scottish citizen needs help is more important to me than whether they come from Glasgow.

In the first instance, there should be an exhaustive process of asking people to consider contacting their constituency and regional list MSPs. When that is exhausted, it is not right to say, "I'm awfu sorry you've no been able tae get any joy. You're still gettin kicked oot yer hoose—there's nothin I can dae." If I had gone over the head of the constituency MSP and not allowed him or her to have a role, your accusation would be legitimate, but in this case your accusation is not legitimate.

**Patricia Ferguson (Glasgow Maryhill) (Lab):** You mentioned the circumstances of the eviction, which were obviously distressing for Ms Haylott and for those involved. I understand that you became involved because of the circumstances of the eviction. However, that was not the first time that you had been involved in the case. You had written previously, so what you did was not a spur-of-the-moment action on the day of the eviction. The correspondence indicates that your involvement predates the day of the eviction.

**Tommy Sheridan:** My response to questions from Frank McAveety also indicated that. I told members that I received a letter from Vicky on 19 March, which explained that she had contacted her local MSP about her eviction from a home that she had shared with a former partner, who had subsequently abused her physically.

**Patricia Ferguson:** I will stop you there, because I understand the circumstances from



reading the correspondence.

**Tommy Sheridan:** You want to stop me, but you asked about my initial involvement.

**Patricia Ferguson:** It is about the process.

**Tommy Sheridan:** Exactly. When I receive a letter that tells me that someone who has been a victim of domestic abuse faces being evicted from her home and has contacted her local MSP and councillor and got nowhere, I think that it is my duty the next day—in fact it was that day but the letter went out the next day—to write a letter to Midlothian Council to ask it to intervene to stop the eviction.

I have not tried to hide that I was formerly involved in this. You seemed to be alleging that it was an attempt to hide this previous involvement.

**Patricia Ferguson:** No. If you let me ask my next question, it might become clear why I asked the first one.

**Tommy Sheridan:** Absolutely, but if you let me answer your first question that would also be helpful.

**Patricia Ferguson:** As I say, we already know the circumstances of the case. I was going to ask you whether between 20 March and the eviction—which I think happened in May—there would not have been an opportunity for you to take up the case of Ms Haylott with the local MSP or one of the other regional MSPs, and to offer either to support any action being taken by the local MSP or to work with the local MSP to try to take the matter forward? Even if that had failed, would there not have been an opportunity to try to get wider support for the case that you outlined to us, which you understandably feel strongly about?

10:00

**Tommy Sheridan:** The second part of your question is the easiest part to answer. I sought wider support. I sought to support Vicky Haylott through speaking at local meetings at which her case was highlighted. Tenants groups and members of the Scottish Socialist Party, the Labour party and other parties that were appalled by the circumstances of the case became involved in a campaign to oppose Vicky's eviction. That was done to build broader support.

The committee is in possession of the letters that state clearly the constituency MSP's attitude to my involvement. Rather than contact me to discuss the matter, she has written letters to David Steel to complain about my writing a letter to Midlothian Council and to complain about my phoning the police. There was no opportunity to take a joint approach on this, because the constituency MSP was appalled that I was

involved. I find that regrettable, but it is fine. If someone is involved in a constituency case of mine and is helping somebody, the most important determinant is whether a constituent is getting help rather than who delivers the help.

**Patricia Ferguson:** Between Ms Haylott contacting you and you sending a letter the following day to Midlothian Council, did you contact Rhona Brankin to discuss it with her?

**Tommy Sheridan:** I do not think so. My office may be able to clarify whether we phoned her. I am sure that we tried to contact her by phone, but I do not think that we formally contacted her by letter because we had received the letters from David Steel very soon thereafter, telling us that a complaint had been raised against us.

**Patricia Ferguson:** The point that I am trying to make is that you said that Ms Haylott wrote to you on 19 March. You wrote to the head of housing at Midlothian Council on 20 March. Rhona Brankin's complaint was subsequent to that. Before writing to Midlothian Council, should you not have contacted Rhona Brankin?

**Tommy Sheridan:** Not in the circumstances of this case. As I have explained, in the correspondence that I received from Vicky Haylott and in the conversations with her she made it plain that she had approached her local MSP first and had achieved a less than satisfactory result. The local MSP was aware of the matter. This is not a case where the MSP could say that they had not been contacted about the matter and they were not aware of the case. That would be a legitimate complaint from an MSP, who could say that had they known about the matter they could have done something. This MSP knew about the matter and her intervention was less than satisfactory to the citizen who had contacted her. It is different from the type of case that you are describing.

**Patricia Ferguson:** But you had not contacted the local MSP to find out from them what they had been trying to do.

**Tommy Sheridan:** No. I had heard from the citizen involved what the local MSP had done.

**Tricia Marwick:** You said in your letter of 1 November to Mike Rumbles that Vicky Haylott had written to you, as her party leader, in desperation and you felt that that justified your intervention. Did you intervene as the leader of the Scottish Socialist Party or as an MSP?

**Tommy Sheridan:** I intervened as both. The fact that Vicky Haylott was a member of our party put an extra pressure on me because I am the party leader, but if Vicky had written to me as a member of the SNP or Labour party, I hope that my intervention would have been the same—I am pretty sure that it would have been. There is

added pressure when you, as party leader, are approached by someone in your party. The other circumstances override that, but it is an added detail.

**Tricia Marwick:** If you had intervened as the party leader and written letters, on SSP-headed paper, to Midlothian Council or the police, you would not have been acting as an MSP. However, you are saying to me quite clearly that you were not only acting as Vicky Haylott's party leader, but intervening as an MSP.

**Tommy Sheridan:** Absolutely. The point about my being the party leader and Vicky Haylott being a member of the party is an added detail that I wanted out in the open, because it had been suggested in some quarters of the press that I only helped Ms Haylott because she was an SSP member. I felt that it was important to get it out in the open that that was not the case. That is why that is in the letter. My intervention was as an MSP rather than as the party leader. The fact that I am a party leader gives me added responsibility.

**Mr McAveety:** That is an interesting response. In our earlier discussion, you said that you were certain that you had to intervene in the case. You invoked the legitimate, noble concept of humanity, which I think that we all share. However, it is interesting that, when you were asked whether you would help other people from other parties, you said, "I hope that I would help".

There is a distinction between those statements and I am concerned that that supports the letter that we received in evidence from Rhona Brankin, which claims that one of your key assistants said that you were representing Ms Haylott

"because she is a member of the Scottish Socialist Party".

I am troubled by the nuances of that, perhaps because I used to be an English teacher and care about the use of words. However, they matter and it is important that we obtain an accurate understanding.

Secondly, did you ever receive a response to the letter of 20 March that you sent to Midlothian Council about Ms Haylott's case?

**Tommy Sheridan:** Yes. I will deal with your second point first.

**Mr McAveety:** We have not received it—that is why I asked.

**Tommy Sheridan:** I apologise. There is a response that refers to the code of conduct and states that the council is not prepared to answer my letter because I am not the constituency MSP.

**Mr McAveety:** So there has been no response on the detail?

**Tommy Sheridan:** No, nothing at all.

**Mr McAveety:** The problem is that we are examining something that is not about the case; it is about the procedures. That is the distinction that I am trying to draw. We are asking questions because we must deal with the code of conduct and protocol, not because we want to debate the rights or wrongs of Ms Haylott's case. None of us has the experience or knowledge of the area. That is the dilemma that committee members are in.

**Tommy Sheridan:** That is a difficult dilemma. If you are not aware of the details of the case, you do not deal with the matter in an impassioned way. I do not think that that is how the rules in the code of conduct should be applied. It would help if you were aware of the background, and I hope that that is what I am able to provide for you. I can leave the letter that I received with the clerk, and you can copy it. It states that, because I am not the constituency MSP, the council is not willing to discuss the matter with me.

On your first point, it is perhaps unfortunate that I was not an English teacher, as my use of language was perhaps not as precise as it should have been. I stated quite clearly that, regardless of whether Vicky Haylott was a member of the SSP, the Labour party or any other party, I would have intervened on her behalf in the same circumstances.

I said to Tricia Marwick that I mentioned that in the course of the letter because it was becoming a public comment—I think that it was the *Edinburgh Evening News* that first made it—that Vicky Haylott was a member of the SSP. If you received a complaint that that fact was not out in the open, you might conclude that it was a hidden agenda. Therefore, I would rather that it was out in the open. The letter has nothing to hide in that respect. I confirm completely that it is an added detail that is of little consequence to the intervention.

The letter from Midlothian Council is short and it might be better just to read it to you.

"I refer to your letter of 20 March ... On checking the protocol in dealing with MSP enquiries, I found that the guidance issued to Local Authorities on 1 September 2000 ... I refer to the key principles ... 'No MSP should deal with a matter relating ... outwith his or her constituency' ... I note from this section that you require prior agreement if you are dealing with a constituency matter outwith your constituency or region."

I will pass that to the clerks for copying.

**Tricia Marwick:** When I spoke about Vicky Haylott being a member of the Scottish Socialist Party, it was in relation to your role as the leader of the Scottish Socialist Party, not just that Vicky Haylott is a member of the party. I was trying to suggest that, as the leader of the Scottish Socialist Party, you have not only a responsibility to the party and its membership but a wider

responsibility. I was asking whether you were acting as the leader of the party or as an MSP.

**Tommy Sheridan:** Sure. Sorry, I thought that I had answered that I was acting as an MSP.

**The Convener:** I would like to ask the following question to get to the nub of the issue. You are aware that, as it is written, the code does not prevent you, or any other MSP, becoming involved in cases outwith your constituency. The only proviso is that you get the agreement of the constituency MSP. Did you seek that agreement from Rhona Brankin?

**Tommy Sheridan:** No.

**The Convener:** Did you know that paragraph 19 of the code of conduct states:

"It is fundamental to the success of this document that the Standards Committee will as a matter of course, treat all breaches of these principles with the utmost seriousness."?

Do you understand that?

**Tommy Sheridan:** Absolutely.

**The Convener:** So you did not seek to follow the code and gain the permission of the constituency MSP.

**Tommy Sheridan:** I did not seek the permission of the MSP. I hope that the committee will consider the circumstances, given that I was already aware of the MSP's involvement. I know that your interpretation will be more literal than mine, but I think that the code is there particularly for MSPs who are not given the courtesy of being made aware of a case that involves one of their constituents. If Vicky Haylott had approached me first, it would have been more seriously incumbent upon me to ensure that the local MSP was made aware of the situation.

In the circumstances, that was not the case. Therefore, although I might be guilty of breaching the code of conduct, I do not think it is as serious a breach as if the individual citizen had not contacted the local MSP.

**The Convener:** I am going to labour the point because it is important that members of the committee are aware of your response. If you had followed the rules and requested the agreement of the constituency MSP, and it had been refused, do you accept that that would have been a different kettle of fish than what has happened? You did not seek the agreement of the constituency MSP. Is that a correct assessment of the situation?

**Tommy Sheridan:** That is a correct assessment. I acted with the urgency that I thought that the case deserved. The eviction was due to take place in one week. Time was therefore very limited.

You are right to suggest that if the case before you was that Rhona Brankin MSP had refused to allow me to be involved, or refused to consent to me being involved, with her blessing, then you might be considering a different breach. Any reasonable consideration of the tone of the letters that have been sent would lead you to believe that I would not have been given that consent. However, that is just conjecture.

**The Convener:** But did you ask?

**Tommy Sheridan:** Not in that case.

**Vicky Haylott:** I would like to say something.

**The Convener:** No, I am sorry.

**Vicky Haylott:** Are you going to crucify Tommy without giving him—

**The Convener:** You are here as an adviser to advise Tommy Sheridan.

**Vicky Haylott:** Yes, but I am here as a witness.

**The Convener:** I am sorry, you are not here as a witness.

**Vicky Haylott:** I wrote to Rhona Brankin and she wrote back to me saying she could give no further assistance.

**The Convener:** I am afraid that I will have to suspend the meeting if you continue.

**Vicky Haylott:** I am sorry. I wish to represent Tommy.

*Meeting suspended at 10:14.*

10:15

*On resuming—*

**The Convener:** As agreed at the beginning of the meeting, we move into private session to continue our consideration of the adviser's report. Are members agreed?

**Members indicated agreement.**

10:15

*Meeting continued in private.*

10:31

*Meeting continued in public.*

**The Convener:** We now move to agenda item 4, and, in beginning, I wish to make it absolutely clear to members and to the public that the issue that we are considering today is focused—

**Tricia Marwick:** Convener, could we wait a few minutes to find out whether Mr Sheridan is still in the building?

**The Convener:** Yes, I am happy to wait. I think

that it would be more appropriate to do so. We will adjourn.

10:31

*Meeting adjourned.*

10:34

*On resuming—*

**The Convener:** We will now consider agenda item 4 on whether there has been a breach of the code of conduct. Before we do that, I remind members of the committee, Tommy Sheridan and members of the public that the issue is simple and straightforward. It concerns the conduct of Tommy Sheridan, who is the subject of a complaint. We are considering whether Tommy Sheridan has breached the rules and whether we accept the adviser's report. We face no other issue today.

In the light of what we heard from Tommy Sheridan this morning, we need to consider whether there has been a breach of the code of conduct and, if so, whether we wish to recommend to the Parliament that sanctions are appropriate in this case.

I remind members that the key issue involved in the alleged breach is that of the key principles of annexe 5 to the code of conduct. Principle V in paragraph 4—I repeat this so that we are absolutely clear about the issue—says:

"No MSP should deal with a matter relating to a constituent, constituency case or constituency issue outwith his or her constituency or region unless by prior agreement."

That is the issue. The floor is open.

**Mr Macintosh:** I am slightly concerned about a couple of things that happened this morning.

First, I am concerned about some disparaging comments that were made about a member who has not had the chance to be here to defend herself. That is to be regretted.

I am also slightly concerned that Tommy Sheridan took advantage of a vulnerable young woman this morning.

**Tommy Sheridan:** What was the disparaging comment, Ken?

**The Convener:** Just a moment.

**Mr Macintosh:** A number of comments were made in passing.

**Tommy Sheridan:** What was the disparaging comment?

**The Convener:** Excuse me, Tommy. You are here to participate, but the floor is open to Kenneth Macintosh and I do not want him to be interrupted.

Kenneth is answering my questions.

Has there been a breach? Do you feel that we should recommend sanctions and, if so, why?

**Mr Macintosh:** I think that Tommy Sheridan's behaviour is to be regretted, both earlier and now. It is clear—Tommy Sheridan said this himself—that he has broken the rules and not lived up to the standards that we are all expected to live up to.

You have not made the distinction, Tommy, between your behaviour as an individual and a party leader and what is expected of you as an MSP and a holder of public office.

**The Convener:** For ease of procedures, Kenneth, will you address your remarks through the convener? I am not inviting questions and answers. I am asking you, as a member of the committee, to reach a decision on the issue.

**Mr Macintosh:** It is clear that you have not lived up to the standards that are expected of an MSP, Tommy.

However, this is the first time that Mr Sheridan has been before the committee. Although the complaint is upheld, I do not think that a sanction is appropriate in this case. I do not think that Mr Sheridan's probity is in doubt, although his judgment may be. I suggest that the committee consider emphasising that it will take this breach into account when considering possible sanctions for any similar breaches by the same member in future.

**Patricia Ferguson:** I think that there has been a breach of the code of conduct. Mr Sheridan has made that quite clear, both in the correspondence and in the evidence that he gave to the committee. I certainly accept the standards adviser's recommendations and report.

For the same reason that Ken Macintosh outlined, I do not think that there should be sanctions. This is the first time that Mr Sheridan has been before the committee—I hope that it will be the last. If any future incidents were to occur, we should take this incident into account.

**Tricia Marwick:** Tommy Sheridan said that he had breached annexe 5 of the code of conduct. There has therefore been a breach of the code, but I do not feel that sanctions are appropriate in this case.

All members are aware of some of the circumstances that the young woman was in. Although we have much sympathy for her, because of the dreadful ordeal that she experienced, the matter is not for the committee. The committee can consider only whether the code has been breached. Mr Sheridan admitted the breach. However, I do not think that sanctions

should be applied.

**Mr McAveety:** I concur. Principle V in paragraph 4 of annexe 5 has been breached, and the member accepted that. Many of the issues that have been raised are concerns that all committee members share. I had experience of similar circumstances in childhood. It is important that we separate legitimate concerns about the process from the complaint that relates to the code of conduct. The code protects all members—sometimes even from themselves. We must uphold the principle, but we do not need to impose sanctions. I recommend that we uphold the complaint but do not impose sanctions.

**The Convener:** To sum up, the committee has agreed that Tommy Sheridan breached principle V in paragraph 4 of annexe 5 to the code of conduct. The crux of the matter is that he did not seek prior agreement with the constituency MSP to his taking up the case. It is open to any MSP to take up the case of any individual, if he or she seeks the prior agreement of the constituency MSP.

Members will correct me if I am wrong, but I think that it is the committee's view that prior agreement was not sought and that the code was clearly breached, as Tommy Sheridan admitted. The committee does not wish to recommend sanctions to the Parliament, but it is fair to say that if Tommy Sheridan appears again before the committee on the issue, the present case will be taken into account. Do members agree to accept the adviser's report?

**Members indicated agreement.**

**The Convener:** I suggest that we consider by correspondence a draft report that sets out the committee's decision in full, with a view to publication as soon as possible. Do members agree?

**Members indicated agreement.**

**Tricia Marwick:** May we have an adjournment of about 10 minutes before we proceed to our next item of business?

**The Convener:** Are members happy with that?

**Members indicated agreement.**

10:42

*Meeting adjourned.*

10:51

*On resuming—*

## Members' Interests Order

**The Convener:** I reconvene the meeting following that short break. We move straight to our next item, which is our work on replacing the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999. At our previous meeting, we agreed to defer consideration of a paper on possible new categories of registrable interests. When we drafted the code of conduct, we agreed to revisit some of the consultative steering group recommendations on the code. Today, we will examine some of those proposals and consider possible new registrable interests. The paper before us suggests that we bear in mind not only the need for transparency, but the need for proportionality in imposing new requirements on members.

I propose that we consider the paper section by section. The first section examines non-pecuniary interests, such as unremunerated directorships or membership of voluntary or charitable organisations and professional bodies. Currently, such interests may be registered on a voluntary basis. We may wish to endorse the current approach or consider a mandatory requirement to register and declare such interests. If we take the latter approach, there may be problems in defining exactly what constitutes a non-pecuniary interest. Members have a note that gives an idea of the decisions that we have made on the members' interests order to date. The floor is open for members' views on non-pecuniary interests.

**Tricia Marwick:** Local councillors and some members of public bodies are required to register non-pecuniary interests where there is a perception that such interests might impinge on their duties as public representatives. I see no reason why MSPs should not have to register non-pecuniary interests in the same way. The difficulty that we may face is in deciding the range of non-pecuniary interests. However, in many cases, non-pecuniary interests can have an influence on the way that public representatives act or on the perception of the way in which they act. MSPs should be required—as much for their own protection as for helping people to get information out of them—to register non-pecuniary interests, certainly to the same level as is expected of local councillors in Scotland.

**Mr Macintosh:** Like Tricia Marwick, I was concerned that MSPs might be out of step with the requirements on local councillors. However, on balance, I think that the requirement to register

non-pecuniary interests fails the proportionality test. Any such scheme for MSPs would certainly be unwieldy, could be unworkable and, I feel, is unnecessary. The key point is that those interests are non-pecuniary. In a Parliament that values transparency in its working, there is an obligation on MSPs to declare non-pecuniary and other interests that may influence their conduct or may be seen to influence it. However, I am quite happy that that should be done on a voluntary basis. There is no evidence to suggest that the system is not working, and I am happy for it to continue on a voluntary basis.

**The Convener:** At the moment, there is a miscellaneous column in the register of members' interests. Should we change that heading to show that interests shown in that column are declared on a voluntary basis? Is that what you are saying?

**Mr Macintosh:** I would certainly be happy with that. If MSPs feel that they have to scrabble around to find the right area in which to register an interest, perhaps we should make it clear to them that any non-pecuniary interests could be registered under that heading. For example, I, like many of my colleagues, am a member of a trade union. That is the sort of thing that I would expect members to register.

**The Convener:** On a voluntary basis?

**Mr Macintosh:** Yes. Those are non-pecuniary interests—that is the key. Members would register the interest for people's information, but there should be no greater obligation than that to register such interests.

**Mr McAveety:** When I was a minister, I was involved in the Local Government Committee's discussions on the Ethical Standards in Public Life etc (Scotland) Act 2000, which applies to councillors and members of other public bodies. It would be inappropriate to suggest that there is a substantial difference between MSPs and other elected members in this regard. I am in favour of registration, as recommended in paragraph 6 of the paper and I agree that it should not be a criminal offence not to register that information. That would assist the process of openness and transparency that many of us have argued for.

**Patricia Ferguson:** I have thought long and hard about the issue, as have my colleagues, and I have come to the conclusion that we should register those interests.

**The Convener:** On a voluntary basis or on a statutory basis?

**Patricia Ferguson:** On a statutory basis.

**The Convener:** In that case, Kenneth Macintosh seems to hold the minority view.

**Mr Macintosh:** Indeed.

**Tricia Marwick:** At our next meeting, perhaps we could consider the areas that we believe should be registered. The clerks could do some work on that. I know that the National Assembly for Wales has a limited register of non-pecuniary interests. Perhaps we could see what interests other Parliaments and organisations are required to register and discuss the matter in more detail.

**The Convener:** The second section of the paper relates to the interests of spouses and close family members. We touched on that at our previous meeting. The CSG recommended the registration of pecuniary and non-pecuniary interests of spouses, cohabitees and close family members. One argument in favour of that could be that gifts or other benefits could be passed to a relative to influence the member or to circumvent the rules on registration. However, the paper notes that requirement for such registration would be a significant invasion of the privacy of family members and would increase the complexity of the register. There might also be European convention on human rights implications. What views do members have?

**Tricia Marwick:** We have said from day one that our spouses and close family members do not seek elected office—we do that. Their privacy is invaded enough by being related to us. I see no case for compulsory registration of the pecuniary or non-pecuniary interests of a spouse or close relative.

**Mr Macintosh:** I am glad that I am not going to be in a minority of one on this issue. I agree with Tricia Marwick. It is not necessary for close family members or spouses to declare such interests. However, it is important to stress that there is still an obligation on MSPs to declare any gift or interest that their spouse or close family relative might receive or have as a result of the MSP's office. That obligation would still exist without extra obligations being placed on the spouse and close family members. On this issue, as we have said on other issues, the idea that a spouse—well, I will leave it there.

11:00

**The Convener:** Okay.

**Tricia Marwick:** You might get into trouble.

**The Convener:** If members have no further comments on that issue, we will move on to the next section of the issues paper, which asks whether pensions should be registrable. Some members, including me, currently register pensions voluntarily. Should we make registration of pensions compulsory?

I will put in my tuppenceworth. I receive an Army pension. The Army is a reserved matter, but I

decided to register that pension voluntarily, because it is income that I want to register. I am interested to hear members' views on whether it should be compulsory to register pensions. Should my constituents know that I receive that income?

**Mr McAveety:** I do not think that they necessarily should. The issue of registering is about connections that could be regarded as influencing an MSP or about an MSP being in breach of the kind of transparency and openness that is expected. I cannot envisage occupational or armed services' pensions having to be registered, although what Mike Rumbles has done is noble.

**The Convener:** Say that again for the record.

**Mr McAveety:** It was noble of the Army to give you a pension that says, "Please don't come back"—I understand that once you accept the pension, you cannot return.

Proportionality suggests that MSPs can volunteer information about pensions. They should not be forced to do so, however.

**The Convener:** Do members agree that MSPs should not be compelled to register pension income?

*Members indicated agreement.*

**Mr McAveety:** You can retire now, convener.

**The Convener:** I am retired. You can see the grey hair.

The final section of the paper considers whether we should require members to deposit with the keeper of the register a copy of any agreements that they have entered into on the provision of services in their capacity as MSPs, as is the practice at Westminster and as was recommended by the CSG working group. Members might feel that the current requirement to register such employment under the heading of remuneration is adequate. What do members think about the issue?

**Tricia Marwick:** I cannot for the life of me understand why the agreement would have to be lodged with the standards clerks. It is sufficient that, if an MSP is fortunate enough to write for a newspaper—I have never been invited to do so—

**The Convener:** Your eye contact with the members of the press who are present is noticeable.

**Tricia Marwick:** Yes.

It is sufficient for MSPs to register only the income that they accrue from work. It is not important to register the work. I do not see the need to register an agreement with the standards clerks—unless I am missing something.

**The Convener:** Do members have any other

comments? Are members in broad agreement with Tricia Marwick?

*Members indicated agreement.*

**Tricia Marwick:** I have a further point, before we move on from the subject of the members' interests order. So far, we have discussed non-pecuniary interests, but I have long been concerned about the issue of pecuniary interests in relation to what happens in the chamber. An MSP need only say that they have an interest and what that interest is before they can go on to take a full part in the debate and the voting. I understand that at Westminster an MP was prevented from becoming a shadow rural affairs minister because he was also a farmer.

I wonder whether we need to examine our procedures in relation to pecuniary interests. We should consider whether it would be appropriate to disbar people who have a pecuniary interest in the subject from taking part in debates or from voting on it.

**The Convener:** I will take advice from the clerks on that point.

**Sam Jones (Clerk):** The next aspect of the order that the committee is due to consider is the rules on the declaration of interests. We have been working on that. I understand that at the National Assembly for Wales the rules specify that members who have a direct interest in the business in hand are prevented from voting. The paper on the declaration of interests could perhaps consider the issues that Tricia Marwick has raised.

**The Convener:** That is a sensible point. We should put it on our agenda for our next meeting.

*Meeting closed at 11:05.*





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