

STANDARDS COMMITTEE

Wednesday 5 December 2001
(*Morning*)

Session 1

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STANDARDS COMMITTEE

16th Meeting 2001, Session 1

CONVENER

*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

DEPUTY CONVENER

*Tricia Marwick (Mid Scotland and Fife) (SNP)

COMMITTEE MEMBERS

*Susan Deacon (Edinburgh East and Musselburgh) (Lab)

*Lord James Douglas-Hamilton (Lothians) (Con)

*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

Committee Room 3

Scottish Parliament

Standards Committee

Wednesday 5 December 2001

(Morning)

[THE CONVENER opened the meeting at 09:33]

The Convener (Mr Mike Rumbles): Good morning and welcome to the 16th meeting of the Standards Committee in 2001.

I extend an especially warm welcome to Susan Deacon, who takes over from Patricia Ferguson on the committee. In doing so, I pay tribute to the hard work that Patricia has done and the commitment that she has shown during her two and a half years on the Standards Committee. I thank her very much.

Interests

The Convener: Under agenda item 1, I call on Susan Deacon to declare any relevant interests.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I thank the convener for his welcome. I have sought advice on the matter from the clerk and, to the best of my knowledge, I have no interests to declare.

Items in Private

The Convener: Agenda item 2 is to consider whether to take item 7 in private. As item 7 is our initial consideration of a report from the standards adviser concerning a complaint against a member, I propose that, as usual, we take it in private.

Are members agreed?

Members indicated agreement.

The Convener: It would also be useful if we could decide how to consider our draft standards commissioner committee bill. I anticipate that the draft bill will be available for consideration at our next meeting, which will be our final meeting this year. I propose that we also take that item in private, given that we will be dealing with a draft bill and that we will be receiving a briefing from the committee's legal advisers and from the non-Executive bills unit.

Are members agreed?

Members indicated agreement.

Members' Interests Order

The Convener: Agenda item 3 is our continuing work on the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999. This morning we are considering a paper that addresses the shortcoming of the paid advocacy provisions in the members' interests order. Unlike the Scotland Act 1998 and the code of conduct, the order fails to specify a link between the remuneration or other benefit that is received by the member and his or her action in Parliament. That omission in the members' interests order has given rise to concerns that an MSP with a registrable interest could be unable to participate in related parliamentary proceedings without risking being in breach of the paid advocacy provisions.

When drafting the paid advocacy section in the code of conduct, we relied on the provisions in the Scotland Act 1998 to ensure that a member must be shown to have advocated a cause in return for some form of payment—that is the important point. The replacement legislation affords an excellent opportunity for us to rectify the deficiency in the members' interests order.

Other issues that we might wish to consider in developing our policy include whether we should specify exactly what parliamentary activities are prohibited. Currently, the members' interests order states broadly what a member should not do in his or her capacity as an MSP. On the other hand, if we list prohibited activities we risk creating loopholes, so we might prefer to maintain the existing approach. I would like us to discuss those themes now.

Mr Kenneth Macintosh (Eastwood) (Lab): The present wording of the members' interests order has caused concern and unforeseen difficulties in its operation. I agree with the first point in paragraph 9 of the paper. We must specify the link between paid advocacy and the action to be undertaken. It is difficult to make a judgment until we have seen the wording. It was hard to foresee the difficulties that arose with the order. We need to tighten up the order and establish the reason for having it, but I would not want us to make matters worse. We must take a decision on the wording. It will be difficult to take this much further without seeing the wording and making a judgment on it.

Lord James Douglas-Hamilton (Lothians) (Con): Unfortunately, I have to go to another committee in a moment.

There is a danger in being too prescriptive. Everybody knows that paid advocacy means speaking in Parliament or making representations in Parliament in return for payment or

remuneration, which is not only improper but a crime. I am not sure that we need to spell it out, because everybody knows exactly what it means. It would be a crime, which would be reported to the fiscal and dealt with accordingly.

Tricia Marwick (Mid Scotland and Fife) (SNP):

The paper explores some of the problems that we have experienced with the members' interests order. I can think of two occasions when we have had to interpret what the order means, one of which involved Mike Watson. I do not think that the committee considered the other situation, which involved Linda Fabiani. Linda went to East Timor with a relief organisation. When she returned, she could not speak in the Parliament about her experiences, because that would have suggested that she was a paid advocate. Such rules have caused many difficulties, which is why we are dealing with the subject today.

I agree with Lord James Douglas-Hamilton. If we are too prescriptive, we may cause difficulties. If our interpretation is too lax, we could leave ourselves open to accusations that people can pay cash for questions. We all agree about what we do not want to happen. Our difficulty is finding a form of words that allows MSPs to do their jobs and to bring credit to the Parliament without putting undue obstacles in their way. That is the trick that we must perform. It is difficult to suggest a form of words that might help, but the committee's views are clear. We all agree about what we need to do. The only difficulty is the form of words that will allow us to do that.

Mr Frank McAveety (Glasgow Shettleston) (Lab): Tricia Marwick talked about the uncertainty that one member faced. Many folk who go on fact-finding tours could face that uncertainty. They could go to the Council of Europe or go to watch the European Parliament, then return and talk about the issues that were raised. The USA operates international visitor programmes. Can members not comment or make observations on issues that relate to such visits when they return?

The Convener: We are trying to deal with that.

Mr McAveety: The situation would be absurd. What would be the point in such exchanges or networking—in the proper sense of the word—if they could not be used to inform debate?

A separate issue is whether members can take up paid employment, or employment with benefits in kind, that links with how they conduct themselves as MSPs, particularly in lodging questions. If we made that clearer, we would reassure the public that we will not replicate some of the weaknesses that the Westminster system exhibited until 1997, and perhaps beyond then. We should separate those matters. That is the important message.

The Convener: Frank McAveety identified two issues. If members are content, I will ask the clerks to produce a form of words for our next meeting that clarifies the link, because the current members' interests order lacks clarity.

The other issue is whether the rules should specify the parliamentary activities to which the prohibition applies. I understand that committee members want to keep the provisions as they are and not make them more specific. Does Frank McAveety disagree?

Mr McAveety: No. That is fine. A specific definition would allow folk to find ways of getting away with what they are doing or to contest the provisions. At least the present system has clarity. The principle is that members make judgments. That is right and proper, because how MSPs conduct themselves is an individual choice. If an MSP errs, the Standards Committee might examine the matter.

Tricia Marwick: Paragraph 4 of our paper on paid advocacy says that MSPs can undertake activities provided that they do not expect remuneration for them. That is the formula that we will develop, which involves a nexus or link. MSPs should not lodge questions or hold debates in the expectation of remuneration.

However, what happens if, six months later, a member is given a gift, other remuneration or some form of sponsorship? No one could say that they had undertaken the activity in the expectation of receiving something, but in some cases, they might receive something. How do we deal with that? The wording must deal with an MSP who says, "I didn't expect to get that. That was not a consideration and was not why I raised the issue." How do we deal with the back-end of that, in which despite a member saying that he did not expect reward—members will notice that I said "he"—he might get it further down the line, unexpectedly?

The Convener: That is a very good question.

Tricia Marwick: I do not know the answer.

The Convener: Are there any other comments or views on that question?

09:45

Mr Macintosh: That is a foreseeable scenario. I can imagine, for example, a member developing an interest in a subject, becoming passionate about it and raising it on a number of occasions. It could be an issue relating to the voluntary sector, for example. An organisation could then employ the member as a spokesperson, or adviser, or appoint them to the board. I do not know whether we can do that, but it happens at Westminster. The member might accept that appointment for no reason other than their interest in the subject, but

it might follow that they would be breaking the rules. As Tricia Marwick said, it is all about expectation. If there was no expectation, but there was reward, some people might put two and two together and get five.

The Convener: The matter seems to come down to judgment. Perhaps the clerks could come back to the committee with a phrase such as, "in likely expectation of" to include in the rule. A judgment could then be made as to whether a member could reasonably have expected reward.

Mr McAveety: I agree, but the issue is not about whether MSPs take up issues; it is about whether they are transparent in doing so. It is about judgment and the extent of the MSP's participation. That is our dilemma. The problems that have arisen in other places have come about when people did not declare their interests and there was no record of a connection. We want to guard against that.

Given that we are in a world in which there will be mixed-market provision for a long time, an organisation that started off in the voluntary sector could find itself becoming more commercially orientated in terms of the generation of income. Would I be less ethical if I worked for a not-for-profit organisation that then became a hybrid organisation? We may need to take a philosophy class.

Susan Deacon: I am conscious that I am newer to the discussion than others round the table. The convener used the word "judgment"; that is the key issue. I know that the committee has grappled with the members' interests order for some time. I feel that, in this terrain, we have to be realistic about the limitations of what can be prescribed. We can set a framework within which members can operate, but judgments will always have to be made by the members and the various bodies of the Parliament.

Frank McAveety raised an important point about transparency. Sometimes we consider these issues through the Westminster prism, because that is what we have known and there has been a great deal of debate there. Although our system is far from perfect, the degree of transparency and scrutiny in this Parliament is considerably greater than that in Westminster. There is far more scope not just for members, but for the public to make judgments about what is proper.

The combination of a sensible, pragmatic and non-prescriptive framework and continued efforts to maintain transparency through the various declaration processes is a reasonable balance. I hope that we do not spend an inordinate amount of time searching for the holy grail of the perfect solution, which is not there.

I acknowledge that other members have

grappled with the issue for longer than I have. I hope that they will forgive me for adding my comments at this stage.

The Convener: Your comments are very welcome and they summarise the matter quite neatly.

I ask the committee to consider a couple of the other bullet points in the summary, which I am sure the clerks would like to hear our views on. The second last issue in paragraph 9 is whether the paid advocacy provision should be

"extended to apply where remuneration has been received by a Member's spouse/cohabitee or close family member".

What do members feel about that?

Mr Macintosh: We came up with a form of words before, did we not? The provision on paid advocacy should be extended to partners only if the remuneration is the result of an MSP's activity. Our partners are not standing for Parliament and should not be subject to the same scrutiny. The test should be whether they receive some remuneration as a result of our activity as MSPs.

The Convener: Kenneth Macintosh rightly refers to the list of decisions that we have reached on the members' interests order, which was suggested originally by Tricia Marwick; I hope that everybody has a copy. The third point on the second page of that list is that the interests of spouses, cohabitees and close family members should

"not be registrable except in relation to gifts received in connection with a Member's Parliamentary role."

That was specifically about gifts. I think that we should be consistent. How do other members feel?

Mr McAveety: From memory, I recall that one of the issues that arose during the 1980s in Westminster was that a number of partners of Cabinet ministers took up directorships of companies. Subsequently, when those ministers were no longer involved directly in Government business—in other words, in Cabinet business—they took on the directorships that their partners had held, perhaps cynically, until that was possible. Again we are dealing with judgment—people should at least provide broad information. If they withhold that information and it transpires that there has been an unusual set of arrangements, they could be examined on that. Somebody who wishes to register should be able to do so, but registration should be voluntary rather than prescriptive.

Kay Ullrich (West of Scotland) (SNP): Frank McAveety has raised a difficult issue. How prescriptive can we be? Spouses are entitled to their rights—they have done training and have backgrounds and abilities that enable them to get

positions on boards, for example. It would be almost impossible to be prescriptive about that. I agree with the point about the interests of spouses and cohabitantes not being registrable

“except in relation to gifts received in connection with a Member’s Parliamentary role.”

However, I do not know how we can address what Mr McAveety has just raised.

Tricia Marwick: I agree with Frank McAveety’s point. We cannot cover every eventuality. We recognise that anybody who wanted to do something really bad could find a loophole in any code of conduct or rules. I do not believe that members of the Scottish Parliament are crooks or charlatans and are looking to get something out of their position. We must be careful that we do not go too far in trying to cover every eventuality. I do not think that we can do that. I agree with Kay Ullrich—these days, people usually get jobs because of their ability, not because of their spouse.

Kenneth Macintosh’s point was well made. In our discussions about spouses and close family members, we have clearly said all along that their interests should be registered only if they gain something because of their relationship with an MSP. That is a good rule, because—as we have said repeatedly—we are the ones who seek election, not our families. Although we need balance and transparency, we recognise that family members are entitled to some privacy. Unless it can be shown that there is a link between their gaining remuneration, jobs or anything else and their relationship with an MSP, we should leave well alone.

Susan Deacon: I echo strongly what Tricia Marwick said. I reinforce the proposal in the list that the key issue should be whether any gift, for example, is received in connection with a member’s parliamentary role. I agree that that is the right way forward. However, it is important that such a connection is explicit and demonstrable, not just inferred or implied. If I might be so bold, I think that there is often a tendency, particularly in relation to women, to suggest that they have got somewhere or done something because of the position of their partner or husband. We are still a long way from living in a society in which both parties in a couple are viewed in their own right and according to their own capabilities.

Kay Ullrich: We must also recognise that being the spouse or partner of an MSP can stop someone getting a job or promotion. I am not being facetious when I say that; I could name occasions on which that has happened.

The Convener: I think that we have got the gist. The committee seems to be in broad agreement and we will proceed on that basis.

Cross-party Groups

The Convener: Our next item of business concerns two issues papers on cross-party groups. I hope that members have copies of both papers; one was sent in a folder and the other was sent more recently.

The first paper highlights a potential anomaly in the application of rule 12 of the code of conduct, on the use of parliamentary resources. Although MSPs may make reasonable use of parliamentary resources such as telephones and the e-mail system for daily cross-party group business, they must not use such facilities for publicising meetings. Given the important role that such groups play in promoting participation in the Parliament, the paper proposes that we amend rule 12 to permit MSPs to make reasonable use of parliamentary resources to advertise meetings and sets out a possible new wording of the rule.

If members are content to change rule 12 as suggested, we will submit a paper on our proposals to the Scottish Parliamentary Corporate Body. However, if we take that route, we must lodge a motion to make the necessary changes to the code of conduct. I was asked to put this paper on the agenda because some cross-party groups have been frustrated by not being able to use the e-mail system, even though other groups are allowed to use it. It is the most efficient way of sending and receiving information.

Tricia Marwick: I recall our first conversations about what cross-party groups could and could not do. At the time, most of our advice on that matter came from the SPCB. Some of us felt that those restrictions were far too tight; and experience has shown that, if we want the cross-party groups to operate, they need reasonable access to the Parliament’s facilities.

Part of our reasoning behind those restrictions was that we did not want the same cross-party group system that operates in Westminster, where outside organisations are responsible for the groups and MPs turn up at meetings now and again. In effect, the organisations—whether it is the Scotch Whisky Association or whatever—have a free run of the place; we felt that many of the cross-party groups at Westminster were a front for more commercial activities.

We sought to avoid that situation in the Scottish Parliament. However, although I think that we have avoided it, we have paid for that by frustrating the work of the cross-party groups. It is totally unreasonable to suggest that reasonable use cannot be made of the e-mail facility when any outside organisation can put together a list of all MSPs and researchers and e-mail straight to them.

The e-mail restrictions are utter nonsense and unworkable. We know that some cross-party groups are acting contrary to the code of conduct. It is time that we embraced their needs and practices. Nobody is suggesting that their practices are not good practice.

10:00

Mr McAveety: It is not unreasonable to request flexibility on the issue. We are moving into a world in which information technology is increasingly used. There should not be an overburdening monitoring role—another office should not be created simply to police cross-party groups and waste money. Members receive a number of messages by e-mail from organisations and individuals and even internal messages that are an absolute waste of time. The occasional notification of a cross-party group meeting would be helpful so that members could look at their diaries for the week to find out whether a meeting could be fitted in. The proposal is not unreasonable, as long as there is not excessive monitoring.

The Convener: Are members content that a paper be forwarded to the SPCB?

Members indicated agreement.

The Convener: The second paper deals with the findings of a survey that the clerks carried out on behalf of the committee earlier this year. On 28 March 2001, the committee agreed to review the activity of cross-party groups. The report is a detailed, statistical analysis of the current cross-party groups.

Paragraph 15 of the report states:

“The number of CPGs does not appear to be excessive”.

The number is certainly not excessive in comparison to Westminster. The report also states:

“There appears to be a good degree of variation in the activity of each Group;

There may be some concerns in relation to MSP attendance;

There may be some scope for some Groups to be amalgamated.”

Those are the basic findings in the clerks’ report.

Kay Ullrich: I am concerned about MSPs’ attendance. When I was elected, I was as guilty and as full of enthusiasm as other MSPs in saying that I would join groups, but the reality has now set in. New groups are suggested and the same people are involved. I am concerned that around 30 per cent of meetings are attended by only the minimum required number of MSPs—two. In the first flush of youth in the new Parliament, as it were, joining cross-party groups seemed like a

good idea, but I am concerned that we are giving false expectations to people and voluntary organisations that expect more of the groups than they deliver, particularly in respect of MSP participation.

There is a case for considering amalgamating groups, if possible, although nothing screamed out as to what groups could be amalgamated on my first read-through of the paper. The issue is a real concern. As I said, members had the best of intentions in joining groups, but they now find that they cannot attend them through sheer pressure of work. There should not be requests every other week for yet more groups to be formed when the evidence shows that MSPs are not coping with group membership.

Mr McAveety: If we want to merge cross-party groups, the proposed cross-party group on Cuba could be merged with the cross-party group on human rights. That would be interesting.

The Convener: Let us not prejudice our decisions.

Mr McAveety: I am not uncomfortable, but the issue might be worth attention.

There is an issue relating to attendance and we should write to the groups about that. On the parallel with Westminster, there are an astonishing 306 cross-party groups in the House of Commons. Thirty-eight is not an unreasonable number, although we thought that it was initially.

On Kay Ullrich’s point, it is hard to identify which mergers could take place, other than the interesting merger that I suggested. We should write to the groups about attendance and find out whether something can be done about that.

Tricia Marwick: It is a very interesting paper. I have long been critical of the number of cross-party groups, as I do not think that there are enough MSPs to service them all, nor to give the kind of support that we should give to the organisations that are involved in the groups. Having said that, I recognise that any attempts by the Standards Committee—which has a role in monitoring the cross-party groups—to suggest any mergers or that a group should not exist would be met with great resistance.

Mr McAveety: There will be a cross-party group on resistance.

Tricia Marwick: We might have to accept the fact that cross-party groups will be set up at certain times for specific reasons and, like bright stars, will probably fade away again. It might become the pattern that cross-party groups in the Parliament will not be established for ever and a day. Many of our cross-party groups are based on specific issues, and I do not think that all of them will last for ever. However, if we try to interfere by

suggesting mergers or windings-up, that will be met with resistance. We should perhaps just monitor the situation carefully.

Mr Macintosh: I take a slightly different view. I agree with Kay Ullrich. I am a member of several—far too many—cross-party groups, which I joined out of enthusiasm when the Parliament was set up. I try to be as active as I can in those groups. I have wondered whether I should resign from some of them, but I like to receive the information that cross-party groups circulate; I like to know what is being talked about. Therefore, although I do not attend them all—there are three that I do not attend—I like to hear about them. I have to juggle my time to attend the other groups, as their meetings seem to clash.

I am in the middle of setting up another cross-party group, and members will receive an e-mail from me about it today. I have been thinking about it since the Parliament started. I did not push ahead with the idea because I thought, "What is the point of a cross-party group if no one comes along?" However, there is great pressure from the community that wants the group to be established. I do not think that there will be many meetings—perhaps no more than one or two, or whatever the minimum requirement is—but there is a desire for the group to be set up. For that reason, I think that cross-party groups are quite useful. The cross-party group on autism is particularly active. Not many MSPs attend, but it allows members of the community who suffer from, or whose family members suffer from, autistic spectrum disorders to liaise with the Scottish Parliament to find out information. It is a very effective group.

There is a balance to be struck. Cross-party groups can be effective mechanisms for allowing access to the Parliament for the wider community and bringing issues to the attention of MSPs, even if the MSPs do not attend every meeting. It is unfortunate that attendance is low at some meetings, but we should not read too much into that.

Kay Ullrich: We await Ken Macintosh's application with interest.

Perhaps the onus is on us to be more critical in considering applications. I have not always been a member of the committee. Has it ever turned down an application for a group, and if so, on what grounds?

The Convener: We had a tussle with an application that kept coming back. Eventually, it became the cross-party group on nuclear disarmament. The proposal was not rejected, but there were problems with the application and we eventually got an agreement to get it right. We also rejected Brian Monteith's proposal for a cross-party group on pluralism and Steiner

Waldorf education, on the ground that it was far too narrowly based.

Kay Ullrich: I would like to pick up what Tricia Marwick said about groups springing up because a subject is particularly sexy at the time and then withering on the vine. I am concerned about that. I am concerned that members could use the setting up of a cross-party group as a publicity tool for something that is topical. They could set up such a group, become its chair and use it as a political platform. We should resist applications for cross-party groups on subjects that are the topic of the moment.

Susan Deacon: I share other members' reservations about the potential for groups to be added and added but never taken away. That is something that Ken Macintosh touched on. I also share the concern that the committee must avoid being overly directive or prescriptive on the issue. We could strike a balance by reinforcing or enhancing current monitoring and reporting mechanisms. That would ensure that the existing rules are adhered to. I assume that the survey was part of that process, but I wonder how often reminders are sent and how often groups are asked to submit reports about their membership and attendance. Are members given the opportunity to withdraw if they no longer intend to be active in a group? We should apply the existing rules and should more regularly raise awareness of those rules. That might help members to apply more of a self-denying ordinance on those issues.

Kay Ullrich made an important point about raising expectations. People's expectations are raised enormously when a cross-party group on an issue is set up, sometimes falsely so, not because individuals are not working hard on their behalf but because of the limitations on what can actually be done.

I should like to make an observation about the paper. I was interested in the comparison with Westminster, but I think that we should be cautious about Westminster comparisons. Global comparisons are relevant and interesting. For example, the statistics on the number of cross-party groups per member are a fair comparison. However, I was particularly interested in paragraphs 12 to 14 on health-related CPGs; that is an area that I have some recent knowledge of.

I do not think that making a comparison between the Scottish Parliament and Westminster in an area such as health is appropriate. It is inevitable that the proportion of health-related cross-party groups at Westminster will be significantly smaller because, as a proportion of Westminster's overall responsibilities and business, health is a significantly smaller issue. The Scottish Parliament does not have responsibility for foreign affairs, for example, and a huge number of Westminster

cross-party groups are concerned with that area. If the committee is considering subject-specific groups in future, it would be better to measure the number of health-related cross-party groups against the proportion of business in this Parliament that deals with such matters. That comparison would probably show that the number of health-related cross-party groups is reasonable. It might even equate to less than the overall proportion of health-related activity and business in this Parliament.

The comparison that has been drawn is rather spurious, if I may say so, but I found the paper very interesting otherwise.

The Convener: It is amazing what one can do with statistics.

Mr McAveety: She is the former Minister for Health and Community Care.

The Convener: Susan Deacon has raised some interesting points. As members might expect, the clerks have been monitoring cross-party groups. Reminders have already been sent out to the conveners of cross-party groups that have not yet held an annual general meeting. There are several such groups.

I would not say that paragraph 3 alarmed me, but I am uneasy about it. It states:

"38 Questionnaires were sent out and the Clerks received 31 full responses and 2 partial responses."

If my maths is correct, that means that five cross-party groups did not respond. We have a monitoring role and it is a little disquieting that five groups did not respond to the clerks. I would like to write to the conveners of those groups and ask them to respond to the survey. We will follow up from there and I will report the findings to the committee.

Mr McAveety: Are you insisting on a response?

The Convener: Yes indeed. I will write forcefully.

Mr McAveety: A failure to respond would mean that we would review the continuation of that CPG.

10:15

The Convener: Yes. I have one more point, about paragraph 8. The rules were written specifically for the purpose of making the meetings parliamentary in nature. The rules say that a minimum of two MSPs should attend every cross-party group. So six meetings were held that should not have been held. We should remind all cross-party groups that they should ensure that at least two MSPs turn up at their meetings.

Mr Macintosh: I agree that you should write to the groups. I am not sure what the tone of the

original letter was but, as you know, MSPs get surveys all the time. I am not a convener of a cross-party group and do not know what the letter said, but the conveners might not have made the link that they should respond to the survey. Perhaps, rather than a threat to take the cross-party group away, a diplomatic but firm reminder would be more in order.

The Convener: When cross-party groups are set up, they come to the Standards Committee for approval. They are made aware of the monitoring role of the committee. They received a questionnaire from the clerks of the committee that asked them about that role, and it is surprising that five group conveners did not respond. Although I would not suggest removing the groups, I will be writing less diplomatically than I did in our original letter.

Mr McAveety: I would like you to send a letter in the normal gentle and healing tones of Mike Rumbles.

The Convener: I draw a distinction between my role in the Standards Committee and what happens elsewhere.

Mr McAveety: That is an admission.

The Convener: Item 5 is an application for a cross-party group on Cuba.

Tricia Marwick: Could we defer consideration of the issue until our next meeting?

The Convener: For what reason?

Tricia Marwick: You will see that I am the vice-convenor of the group. There are a number of issues that I want to discuss with the proposers of the cross-party group before we approve it.

The Convener: If you are the vice-convenor, that seems appropriate. Do members agree to that?

Members indicated agreement.

Code of Conduct

The Convener: Item 6 concerns correspondence that we have received from Tommy Sheridan. He has asked whether annexe 5 should make provision for a member to act outwith his or her constituency in urgent circumstances, and to seek retrospective consent from the constituency member. He has asked us to bring the issue forward and it is appropriate for us to discuss it at today's meeting. The floor is open to members.

Mr Macintosh: I do not see anything wrong with discussing the issue. I am not entirely sure that that is what happened in his recent case, but I am happy to discuss the matter.

The rule was a difficult one to introduce and it was introduced for a particular reason. It has been operating for a couple of years and perhaps it is time for us to consider how it is working in practice. It is there as a guide to encourage good behaviour among MSPs. I do not think that there is any particular problem.

Tricia Marwick: Paragraph 4 of our note makes it clear that annexe 5 was drawn up by the Deputy Presiding Officer George Reid. It was agreed by the business managers and the parties and then given to the Standards Committee and incorporated in the code of conduct. If further discussion is required, we should write to the Presiding Officers, pointing out that Mr Sheridan has contacted us on the issue and asking them to consider it.

Kay Ullrich: Susan Deacon might remember my previous life as health spokesperson for my party. Regional members with a particular portfolio tend to get letters and phone calls from people all over the country wanting them to take up particular cases. It was always difficult to decide what was a general issue that I could deal with as the health spokesperson and what was an issue that related only to my region. Mr Sheridan, as a party leader—albeit of a one-man party—might be receiving the same sort of demands from people who think that he can move heaven and earth from his particular platform. The issue raises a problem that is faced by all party spokespeople; Tricia Marwick, in her role, might be finding herself asked to take up cases from throughout Scotland.

Mr McAveety: Like everything else from this particular member, the first paragraph of his letter is not strictly accurate. It does not really describe the discussion at the previous meeting of the Standards Committee. I do not see the connection. I am not convinced that his interpretation of the discussion is the same as ours. If we want to pursue the matter, I should be

happy to take guidance for our next meeting. In the second paragraph, he identifies the specific issues on which he feels he is a sort of flying spokesperson. It might be interesting to discuss that.

Tricia Marwick: Other members will recall that, when I questioned Tommy Sheridan, I asked him whether he was acting as the leader of his political party or as an MSP. If he had said that he was acting as the leader of his political party in dealing with the particular issue under discussion, there would have been no case for him to answer. However, he did not claim that he was acting as the leader of his political party; he said that he was acting as an MSP. As he was acting as an MSP, it was found that he had breached the code of conduct for MSPs.

In my view, Mr Sheridan could have acted quite legitimately as the leader of the Scottish Socialist Party on issues such as pointings, warrant sales, wage arrestments, evictions and other direct actions. However, in the particular circumstances that we were considering, he claimed that he was acting as an MSP. That made the difference. We have to be clear that all that we are dealing with is the actions of people who are acting as members of the Scottish Parliament.

Because annexe 5 was imposed on us in the Standards Committee by the Presiding Officers and the business managers—a matter about which I have some knowledge—I feel that it should go back to them. They have to reconsider the annexe in the light of Mr Sheridan's comments.

Mr Macintosh: Although I have no worries about receiving further information in an issues paper, I would like to say for the record that I am not prejudging the issue and I certainly am not saying that I agree with the comments that have been made.

The Convener: I think that we should have an issues paper from the clerks so that we can discuss this issue as an agenda item. We can then decide whether a review of annexe 5 is necessary.

Members indicated agreement.

The Convener: Our final item of business this morning is the initial consideration of a report from the standards adviser. As we agreed at the beginning of the meeting, we will take the item in private. I now ask members of the public, press, official report and broadcasting to leave the meeting.

10:24

Meeting continued in private until 11:34.

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