STANDARDS COMMITTEE

Wednesday 16 January 2002
(*Morning*)

Session 1

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STANDARDS COMMITTEE
1st Meeting 2002, 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

THE FOLLOWING ALSO ATTENDED:

Mr Keith Raffan (Mid Scotland and Fife) (LD)

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Jim Johnston

LOCATION

Committee Room 3

Scottish Parliament

Standards Committee

Wednesday 16 January 2002

(*Morning*)

[THE DEPUTY CONVENER *opened the meeting at 09:32*]

The Deputy Convener (Tricia Marwick): Good morning and welcome to the first meeting of the Standards Committee in 2002. We have received apologies from the convener, Mike Rumbles, who is ill. I extend a particularly warm welcome to Keith Raffan, who is here for item 2.

Item in Private

The Deputy Convener: We first need to agree how to consider item 5, which relates to the arrangements for the introduction of the Scottish parliamentary standards commissioner bill. Given that the item relates to briefing material on draft legislation that has not yet been published, I propose that we take the item in private. Are members agreed?

Members *indicated agreement*.

Cross-party Groups

The Deputy Convener: Our second item relates to cross-party groups. Members will see that there is an application for a cross-party group on Cuba. Do members have any comments?

Lord James Douglas-Hamilton (Lothians) (Con): As we have already approved a cross-party group on Palestine, the principle of setting up cross-party groups on foreign affairs issues—even though they are reserved matters—has been conceded.

The Deputy Convener: Are members content to approve the proposal?

Members *indicated agreement*.

The Deputy Convener: As I said, we have been joined by Keith Raffan, the convener of the cross-party group on drug misuse. Keith has asked to be allowed to make representations to the committee concerning the application of rule 9 of section 8.3 of the code of conduct, which requires cross-party groups always to meet in public.

Mr Keith Raffan (Mid Scotland and Fife) (LD): Thank you, convener, for allowing me to attend this meeting. I would like to read into the record the written statement that I submitted to members in advance, because it sums up my argument. Afterwards I would be happy to answer any questions that members of the committee may have.

I am proposing that we relax the rule that requires cross-party groups to meet in public. In my view, the principal objective of the cross-party group on drug misuse is to increase the knowledge and extend the expertise of those MSPs who are interested or involved in what is a highly complex and controversial area of policy. The main means of achieving that objective is through informal meetings with specialists from across the field, who can provide information, criticism, policy ideas and proposals. Such people can both inform and add to MSPs' parliamentary contributions on the subject.

It was originally expected that our meetings could be held under Chatham House rules—in other words, in private—in order to encourage our guest speakers or panellists to be as open and as frank as possible and not to hold back in disclosing information or concerns. The rule that cross-party group meetings must be held in public has had the unfortunate effect of inhibiting some guest speakers' initial remarks or subsequent contributions to the group's discussions. For example, several speakers from voluntary organisations have indicated to me their concern that, if they said what they really believed and

word of their criticism got back to the Executive, the already precarious funding of their organisation might be further threatened. I should add that, on one occasion, the Scottish Prison Service forbade two representatives from attending a meeting of the group. One of the representatives attended only after I intervened directly with the Minister for Justice. However, she limited her contribution to reading out a prepared statement and then informed those who were present that, regrettably, she was not allowed to answer questions.

In my view, cross-party groups—like committees of the Parliament—should have the option of going into closed session or holding meetings in private if a proposed guest speaker indicates that he or she could not attend on any other basis or would feel inhibited in what they could say if the meeting were held in public. I believe that such cases would be the exception rather than the rule and that most meetings would continue to be held in public.

The Deputy Convener: Thank you. Do you wish to add anything to that statement?

Mr Raffan: No, not at the moment.

Kay Ullrich (West of Scotland) (SNP): I appreciate what you said in your statement, Keith, but there are many cross-party groups and the same arguments would apply to all of them. Susan Deacon will forgive me, but there are a lot of cross-party groups on health issues and I do not think that we can change the rules because some people might be worried about their funding—that seems a little far-fetched. I am sorry to hear that people are being gagged by their organisations—that is wrong—but I do not think that what they fear would actually happen. It is important that groups are open.

Mr Raffan: That depends. Let me respond to your point directly, Kay. I am not saying that all cross-party group meetings should be held in private. All I am saying is that cross-party groups should have an option to meet in private—an option that is given to committees of the Parliament. It could be argued that cross-party groups should have a greater right to go into private than committees, as cross-party groups in Edinburgh—as at Westminster—are informal forums at which members can receive information that they would not otherwise receive. As I said, such information could inform and add to their parliamentary contributions, such as the questions that they lodge.

I will be frank. Such circumstances have arisen on only three or four occasions over the past two years. Perhaps my concerns are unjustified, but that is how people feel. The issue is not that people from voluntary organisations have been gagged, but that they are hesitant about saying certain things. That may be because they sit on the Scottish advisory committee on drug misuse, which, as members know, advises the Executive. That puts them in an invidious position, yet they have information that they would like to pass on.

Other groups, such as the cross-party group on cycling, might not feel the need to go into private session, but then cycling is not exactly controversial. The main aim of the cross-party group on drug misuse is to pass on information that members would not otherwise receive.

Kay Ullrich: It concerns me that people who sit on drug advisory bodies are not prepared to speak out or to give information and that they keep to themselves information that may be crucial.

Mr Frank McAveety (Glasgow Shettleston) (Lab): Cycling is an activity that is much more public than private anyway, Keith.

A number of members of the Standards Committee also sit on the Procedures Committee, which is exploring the four principles on which the Parliament was established. A key issue that has been raised by a number of civic groups is the committees' use of private sessions. The evidence is strongly critical of committees that engage in that practice, although 90 per cent of such sessions probably deal with housekeeping and are not held in private through a desire to keep the public out.

If there are concerns that are as critical as those that Keith Raffan raises—for example, if people in a quango, an institution or a public body feel that they have been restricted by senior management, say, from speaking out—there should be better mechanisms for dealing with those concerns. Moreover, there might be an opportunity for the convener of the cross-party group to meet individuals privately to discuss issues of concern and subsequently to feed that information through the process of the cross-party group in a more structured fashion. That would prevent people from feeling that they needed to go into private session.

Openness and transparency in decision making is one of the key principles that we are continuing to address. Mr Raffan said that pressure can be brought to bear on some organisations if the matter is raised with the appropriate minister. There are undoubtedly some public and appointed bodies in which scrutiny, accountability and the idea that folk can make comments are considered strange. Interestingly, however, at yesterday's Education, Culture and Sport Committee meeting, half the members of the senior management team of Scottish Ballet submitted a report to the committee, even though they knew that their chief executive was going to come for the follow-

through discussion. Whether what they said was right or wrong is a different matter, but they were prepared to open up the discussion.

The question is one of balance. I understand the concern that Mr Raffan has raised, but I am not convinced that the approach that he has suggested to resolve it is the most appropriate mechanism. Perhaps more time could be devoted to considering ways in which we could address the issues raised by folk at cross-party groups, other than by excluding the public from participation in them.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I agree with much of what has been said. When I read the statement on this subject a few days ago, I was sympathetic to the points that Keith Raffan was raising. Ironically, having heard the justification that he has given, I am less sympathetic. I thought that the reason for seeking the exception was to protect individuals. I was visualising, for example, a drug misuser who would be uncomfortable about speaking openly in front of a group of people that might include the wider public. There are other occasions when I would be extremely sympathetic towards a desire for privacy—with victims of sexual abuse, for example.

However, the idea that privacy should be granted to protect organisations—whether voluntary or statutory—is wrong, for the reasons that others have given. That is partly because of the general principles about the way in which the Parliament should operate. Like Frank McAveety, I have recently been involved in the Procedures Committee's consultative steering group principles inquiry. Openness is a recurrent theme from a range of organisations. It would be contrary to the general practices of the Parliament to move in the direction of privacy with the cross-party groups.

Words such as "gagging" have been used. Keith Raffan said nothing about an organisation being gagged. The issue is more about a sense of people being frightened to speak out—voluntary organisations that think that to do so could affect their funding or public bodies that think that they had better not be seen to say something. With voluntary organisations, we must work to create a climate in which people can speak openly. Many voluntary organisations—including those that are Government funded—speak openly and often critically, which is right and proper. The situation of public bodies—bona fide public sector statutory organisations—is different. Having said that, I would expect some consistency in what representatives of such organisations say—in public or in private, in a committee or at a cross-party group, or to the media. I do not find the privacy argument acceptable.

However, I still hold to my initial, instinctive reaction that there could be an exceptional situation, particularly for the protection of an individual, in which the private option might be appropriate. I would not be averse to considering some way of allowing for that exceptional situation. The idea that there should be a general option for meeting in private is neither appropriate nor necessary.

Lord James Douglas-Hamilton: I wanted to make the same point as Frank McAveety made. The appropriate way forward is for the convener to have a private meeting. In child abuse cases, for example, it is very distressing to have all the evidence dragged out in public. Some years ago, we had legislation on rapes. Evidence from children in the Orkney case was taken privately. The way round the problem is for the convener to hold private meetings to sort out what can be said publicly and to proceed on that basis.

09:45

Mr Kenneth Macintosh (Eastwood) (Lab): I was about to ask the same question, Keith. How do you get round that problem at the moment when you have people who want to speak in private? Obviously, there is an official rule, but I do not like rules to get in the way of MSPs' work or of the free flow of information. Do you simply suspend the group and meet informally? How do you cope with that rule at the moment?

The Deputy Convener: Will Keith Raffan answer that and sum up?

Mr Raffan: The rule gets in the way of the cross-party groups, which exist primarily to help and support members. Meetings in private would be the exception, not the rule.

At the moment, members of the public invariably have the courtesy to ring up and say that they are coming so that I can get a pass ready for them. Frank McAveety is slightly wrong to say that members of the public are allowed to participate. They can be invited to participate—that is the approach that I take, as it helps to know who people are. I usually inform the guest speaker whether members of the public are present and who those members of the public are. I was prompted to come to the Standards Committee because some speakers have told me that the fact that the meetings are in public has led them not to say what they would otherwise have said.

I say in reply to Susan Deacon that I am making this request not to protect organisations or individuals but to ensure that members get the maximum amount of information. If the Parliament is to be truly open and transparent, it is important that we get the maximum amount of information. That should include anecdotal information, which we might not otherwise get.

Although the convener of the cross-party group could meet the speaker in private, individual MSPs can do that anyway. The whole advantage of cross-party groups is that people are prepared to come to the Parliament, which means that we do not need to meet them on a one-to-one basis. As my regional constituency is Mid Scotland and Fife, I am not usually in Glasgow, so if people who work on drug misuse in Glasgow come to the Parliament, I can hear them speak to the group. There is huge advantage for MSPs in meeting as a group to hear experts in the field. I always benefit from listening to the questioning from other MSPs, who might have more expertise. Sometimes other MSPs will introduce a line of questioning that I did not think of and perhaps would not have thought of had I met the speaker in private.

I must say that I am surprised at the committee's response. Parliamentary committees can go into closed session in exceptional circumstances, as this committee is about to do. I will, of course, remove myself at that time. All that I ask is that cross-party groups, which are informal groups, should have that same right, which would be used only exceptionally.

Perhaps I should not say this, but—I am never good at biting my tongue—cross-party groups in the Parliament are in danger of being grossly over-regulated. As one of the 14 or 15 members who have been at Westminster—it may be inappropriate or bad form to mention the big W, but Westminster does many things well—I think that we could learn from Westminster in this regard.

Mr McAveety: Not many of us would disagree that Westminster does many things well, but it strikes me that we need to get the balance right. The fact that committees have the right to move into private session is probably right and proper, given the need for confidentiality. A singular example of that is the Standards Committee, which goes into private to examine cases against members. If the committee did not go into confidential mode for such items, it could find itself the subject of a serious recommendation for discipline and legal action might be taken about the process that was used.

That does not mean that the 90 per cent of other cases in which committees have gone into private session have necessarily been appropriate. The Procedures Committee's inquiry into the CSG principles is exploring whether the Parliament has exercised that provision sensibly and whether we have the right balance between openness and transparency. So far, the submissions that we have received indicate that people are concerned about whether the Parliament is engaging properly.

Equally, there are mechanisms that cross-party groups could use. The cases that you have highlighted are of an exceptional nature, but you are asking for a mechanism that could have a more general application and might be used disproportionately by other cross-party groups. I do not think that such a mechanism necessarily strikes the appropriate balance to address the concerns that you have rightly raised.

Perhaps it is just the experience that I get when I go to meetings in Glasgow, but council members do not mess about. I have seen the senior social work director get absolutely ripped apart at public meetings on some sensitive issues. That is because people are committed to the issues, through their experience and their passion.

A balance has to be struck and I wonder whether a wee bit more consideration could be given to seeking alternative ways and mechanisms, rather than automatically closing the door on a genuine request. We should seek to strike a balance between the various things that members have said so that, in that spirit of consensus and trust that we are building among ourselves in the Scottish Parliament, we can actually deliver something.

Mr Macintosh: I have every sympathy with that and I do not like the idea of rules getting in the way of our work, of the public or of the flow of information between us all. We need to bear in mind the work that the Procedures Committee is doing and the fact that it is not likely to report until the summer. I would hate to prejudge what the Procedures Committee will find, but I suspect that we will recommend—I certainly will—that we tighten up the rules on committees going into private and encourage them as far as possible to stop using private sessions. I am not sure how far we will go in that direction, but it would be odd were the Standards Committee to send a signal in the opposite direction, particularly when there is genuine public concern about the matter.

I appreciate that Keith Raffan's is a genuine concern, but it relates to only one group—no one else has made the same appeal. I suggest that we do not do anything about the matter today but await the Procedures Committee's opinion. If the Procedures Committee recommends less use of private sessions, I do not think that it would be for the Standards Committee to say something different. I also suggest that Keith Raffan tries, in the meantime, to find other methods of working with people for whom the possibility of speaking in public is limited; he could come back to us after the summer so that we can find out whether the group's experience has got worse or better and whether it has found ways around the difficulties that it has experienced.

Mr Raffan: Ken Macintosh has given me an idea. I hope that the committee sees the downside of this, but there is indeed always the possibility of meeting people informally instead of in a formal group meeting. In a sense, that means that we are driven underground and nobody knows what is happening. I do not want that; I would rather that what we did was recorded and that people knew why we were doing things. However, I think that informal meetings are inevitable, particularly in our field. If we did not have them, formal meetings would not be of much benefit and I think that attendance at them would decrease.

The Deputy Convener: I remind members that rule 9 of section 8.3 of the code of conduct states:

"Cross-Party Group meetings must be held in public."

If members wished to vary or qualify that rule, we would need to seek the Parliament's agreement for the necessary amendments to the code of conduct. Having helped to draw up the guidance for cross-party groups, I recall that we felt that such groups were only one way—not the exclusive way—in which members of the public and others would engage with MSPs. Other forums are available. We felt strongly that all cross-party group meetings should be held in public and that they should be open and transparent. We were concerned about some of the practices at Westminster, not least the fact that some cross-party groups there were not parliamentary in nature and were not led by MPs—in many cases, they were led by lobbying companies. We determined that, on balance, we wanted a Parliament that would be open and accountable to everyone.

I am not persuaded by Keith Raffan's arguments. I think that there are other ways of getting the evidence that he is seeking. That need not be through the cross-party group itself. I get the feeling from the committee that we do not wish to take the matter any further at this stage. I hope that you are not disappointed by that response, Keith, but you are of course free to come back to us to ask us to think again.

Mr Raffan: I am grateful to you for hearing me. The group's annual general meeting is coming up. I will not stand again as convener because I believe that the way of getting further information in that complex field, in which I am particularly involved, lies through other means. I am sure that the group will continue.

The Deputy Convener: Thank you for coming.

Complaints (Disclosure)

The Deputy Convener: Item 3 concerns disclosure of complaints to the media. Following our consideration of a complaint against Lloyd Quinan in December, the committee agreed that the current wording of section 10.2.1 of the code of conduct, which relates to the disclosure of complaints in the media, is ambiguous. The clerks have prepared a paper that sets out a series of issues that we will wish to consider in drafting our amendment to section 10.2.1. I suggest that we go through the issues, which have been highlighted in bold in the paper.

Paragraph 5 of the clerks' paper asks whether the code should explicitly prohibit members from publicising an intention to make a complaint. Does anyone want to comment on that?

Mr McAveety: My natural instinct is to say that we should try to restrict such tactics. We should try to achieve a balance between rights and responsibilities. In the way that the media report, the narrative of any media story must be a conflict of concerns. If a member makes an allegation and gets the story into the media and, even after thorough inquiry, nothing is found—as in the majority of the cases that we have looked at—the original allegation is still in the public domain. The allegation can still be referred back to and seen in press copy. If someone were to review the member's parliamentary career to date, that story could be referred back to as the telling factor in their life. We need to be careful.

Our experience of the recent case was that it became caught in that crossfire. If there is anything that we can do to minimise that, let us do it. We should make the rules transparent, so that nobody can go round using Philadelphia lawyers to find the nuance and meaning of a single word and say whether it is appropriate, depending on the day of the week.

Kay Ullrich: I agree with Frank McAveety, and I was interested that he referred to tactics. An allegation could be used as a tactic. We all know how newspapers and the media work. They want something to hang a story on; that could be a parliamentary question or, as in the last case, a member could be asked whether they intend to make a complaint and reply that they do. After that, the story has legs, arms and everything else. It is important that we clarify the code.

Lord James Douglas-Hamilton: If we clarify the code, MSPs should be informed—if possible, by a direct letter from the convener—so that there is no possibility of their slipping up on it.

In the past, MSPs have made political points and written to the Standards Committee. Those

members have been making debating points about this or that, but the points have not amounted to a complaint against another MSP's honour. There is a distinction between party-political knockabout and somebody making a serious complaint against another's honour, which merits investigation. We are concerned with the latter.

Susan Deacon: I echo Lord James's point about communication. When we finalise the process, clear communication to members will be important. We cannot expect members to follow rules if those rules are not clear to them. The existing rules were not clear to me until I sat in the committee's meetings and started to pore over them.

I have a point of clarification, which also ties in with what Lord James said. I agree with paragraph 5, but does it propose a restriction only on a member saying to the press that they intend to make a complaint against another member? In other words, if a member were to criticise another member at length in the press and subsequently lodge a complaint but say nothing further to the media, would that be acceptable under the circumstances that are envisaged by paragraph 5?

The Deputy Convener: My understanding is that if somebody said that they were going to make a complaint to the Standards Committee, and thereafter made a complaint to the Standards Committee, they would be prohibited from making that complaint under section 10.2.1 if we change it to make that explicit.

As politicians, we must all be clear about the points that Lord James Douglas-Hamilton made. There is sometimes unacceptable political knockabout. There is a difference between criticising a fellow MSP in the press and intending to make a complaint to the Standards Committee. We should make it clear to MSPs that they should not allow a story to hang on the fact that they intend to make such a complaint. There is a difference between political knockabout and an MSP's bringing the Standards Committee into a private or public argument with another MSP. We must make it clear that complaints to the Standards Committee are serious and go through a process. Everybody must take the process seriously.

10:00

Mr Macintosh: I support that. It is a good idea to make it clear what is and is not allowed. The spirit of what was intended in the previous amendment was obviously not captured in the draft. I hope that, when the paragraph is redrafted, it will capture the full spirit and intention of the rule; if it does not, we will effectively allow trial by media, which is what we are trying to discourage.

Mr McAveety: We should not be under any illusion that, if anything is referred to a standards officer, the story will not find its way into the media, because third-party usage will be the protocol. Either way, we might end up protecting the interests of a member—quite rightly—by not allowing them to be involved in the process so obviously. If anybody is going to engage in the process, they just might be slightly more subtle about it. The difficulty will be that the press will get hold of things and say, "We know that there is a report. Do you want to comment?" All members should then decline. There should no longer be a byline that allows any MSP to say something regarding a case. That is not to say that there will be no coverage of such cases; the reality is that the information will be out there somehow.

Lord James Douglas-Hamilton: One of the criticisms of the commissioner south of the border was that she informed the press of the broad nature of the complaint whenever a complaint was made to her—at least, that was the allegation. We should consider whether the commissioner or adviser should say, if they were questioned by the press, "I cannot say whether I am considering that." Perhaps the commissioner should say "No comment" until he or she has reported to the committee.

The Deputy Convener: The committee is considering two things: the code of conduct for members and a bill to create a standards commissioner. The bill is quite well drafted and I am not sure where we stand on directing a standards commissioner not to disclose information.

Lord James Douglas-Hamilton: Perhaps the clerk can clarify the matter. I understand that the adviser will not publicise a complaint against a member but will report to the committee.

Sam Jones (Clerk): That is correct. If the clerks are approached by the media—occasionally we receive telephone calls regarding media and other inquiries—our line is always that we do not comment on complaints.

Lord James Douglas-Hamilton: That is all that I wished to clarify.

The Deputy Convener: That is good practice that should be followed.

Paragraph 8 of the clerks' paper asks whether the rule should also prohibit members from discussing complaints during stages 1 and 2 of an investigative process. I am not sure whether that would mean that all members would not be able to speak during the process or whether the rule would apply only to the member who is affected by the complaint and the member who made the complaint. That is not clear. What is meant by that?

Sam Jones: That links into paragraph 10 where we raise the question whether the member who is the subject of a complaint should be permitted to have a right of reply when a complaint becomes public while it is still being considered by the adviser. The other point about paragraph 8 is that, as currently drafted, the code says:

"MSPs should not communicate any complaint to the press or other media until a decision has been made as to how the complaint is to be dealt with."

That suggests that once the adviser has decided that the complaint should be subject to a full stage 2 investigation, the member who has made the complaint or is linked to the complaint can then raise the matter in the press.

In the committee's recommendations in the models of investigation report, and in the standards commissioner bill, the committee envisaged that stages 1 and 2 would take place in private. If there is discussion of the matter in the press, that could prejudice the commissioner's or adviser's investigation. The two issues are tied together.

The Deputy Convener: We could consider paragraphs 8 and 10 together.

In relation to paragraph 10, the complaint against me—to which I have referred before and will refer again—went into the media and I was not going to be tried by the media. I made full and robust rebuttal of the complaint in the media. If we accept paragraph 10, that means that a member will face trial by media if the matter is already out in the media and the media are commenting. If we suggest that members cannot comment or defend themselves, we will have the situation that Frank McAveety described. Things will be on the record, but nothing will be heard from the member. As a member of the Scottish Parliament, I am clear that I will defend myself in any forum against a complaint that I view as spurious.

Lord James Douglas-Hamilton: Any member should be allowed to defend their honour if they are under attack. That principle cannot be breached.

Mr Macintosh: Until we dealt with the matter, I did not realise that members could defend themselves. Some members were working under the misapprehension that, if a complaint was raised against them, they could not speak to the media.

If a complaint is aired, for whatever reason, I feel that members should have the right to respond if they choose to do so. A complaint may not necessarily be aired by the person who made the accusation, but the media could print the allegations. However, if the member chooses to respond, his or her words could be used as the basis for further media coverage.

I am torn between imposing a complete blanket ban and giving members the right to defend themselves.

The Deputy Convener: There is another issue to be considered. We are assuming that all complaints that are made to the Standards Committee, or to the standards commissioner, come from fellow MSPs. The reality is that some complaints come from members of the public or, in some cases, from the media. We have no sanctions against either of those groups if they want to put the initial complaint into the public domain. Our only concern is the behaviour of MSPs and that is what we are dealing with.

As in my case, there is a possibility that a complaint could be made by a member of the public to the press at the same time as the complaint is made to the Standards Committee. I found out about the complaint against me through a faxed letter from various press people who wanted me to comment. Under those circumstances, I was not going to sit back and I give full warning that I will not do so in the future.

We are talking about different circumstances, not just about complaints from MSPs. We have to be careful about paragraph 10 because it would preclude members from speaking, particularly if they are the ones who are being accused and are contacted by the media.

Mr Macintosh: You are right—I was thinking purely in terms of members' complaints. If a member of the public complains about an MSP, we have no sanction against the member of the public and they do not have to abide by any code of conduct. It is only fair that members should be allowed to defend themselves and there should be a right of reply.

Kay Ullrich: The practicalities of policing the rule would be almost impossible. If someone thinks that they are being unjustly accused of something, the natural reaction is to respond.

Susan Deacon: I have been thinking through situations that have some similarities. I am not talking about politicians, but situations in general where individuals are under investigation or have had claims made against them. There are those that are dealt with formally through the justice system, but there are also employment situations or their equivalent, where allegations are made about employees and where the employer—and people in general—would make no comment or would be expected not to comment. Again, accepted practice would be that the individual concerned could, if they so wished, issue some form of denial or say that they will challenge the allegations and expect them to be considered accordingly.

We need to create a situation where the whole

thing is shut down—in the best possible sense of "shut down"—as much as possible, while allowing space for the individual to issue a denial. It would be inappropriate and unbecoming for that individual to fan the public debate. However, I suppose that we cannot write restrictions on that into the rules—we have to leave it to the individual.

In essence, I agree with other members. Paragraph 8 should refer to all members. It should be clear that the rule is inclusive—it does not just apply to the individuals who are involved in the complaint. The exception is the person who is being complained against, who would have a right of reply. I am sure that there is some formulation of words that could reflect that.

The Deputy Convener: I suggest that the clerks come back with a further paper, on the basis of an amendment to section 10.2 of the code of conduct. Perhaps when we see the revised wording, we can discuss the matter further.

Lord James Douglas-Hamilton: The essence of the matter is that the making of a complaint should not be publicised. If a member is asked at a public meeting what they are going to do about some outrage, they might reply that that would be a matter for the Standards Committee. That response would not be completely wrong, but it is not far away from expressing intention to make a complaint. It is the formal making of a complaint that should not be publicised.

The Deputy Convener: Is it agreed that we ask the clerks to come back to us with an amendment to section 10.2 for our further consideration? The clerks have a feel for how the committee views section 10.2.

Members *indicated agreement*.

Work Programme

The Deputy Convener: Do members have any comments on the draft forward work programme? It is fairly full.

Mr McAveety: I wonder whether we could refer our decision on our discussion with Keith Raffan—the private session issue—to Murray Tosh at the Procedures Committee, as part of the consultative steering group inquiry, at least for information. Would that be worth while?

The Deputy Convener: That is okay, Frank—just you jump around the agenda.

Mr McAveety: I have just woken up.

The Deputy Convener: Feel free to provide input whenever you want to. Your comments have been noted and I am sure that the clerks will draw the matter to the attention of the Procedures Committee.

Mr McAveety: I was fully aware that I was moving to a subject that did not relate to the two pages that we are discussing, but I thought that you would give me that flexibility, for which I am grateful.

The Deputy Convener: Can we discuss the forward work programme?

Mr McAveety: Yes.

The Deputy Convener: The forward work programme is full. Would anyone like to comment?

Mr McAveety: The work programme is full enough.

Lord James Douglas-Hamilton: I have no doubt that various amendments to the code of conduct for members will be made in due course, arising from the recommendations of the Procedures Committee and possibly other committees. I do not think that we need to add that to the programme now, but it will happen later.

10:15

Mr McAveety: Cross-party groups produce annual reports. Where are those reports collected?

Sam Jones: We collect them.

Mr McAveety: So we could have a summary of them. I have never seen one.

Sam Jones: We could circulate the annual reports.

Mr McAveety: It would be enough to know who had submitted a report. That would be interesting.

The Deputy Convener: The clerks will provide that information.

Mr McAveety: That might help us in dealing with the number of cross-party groups.

The Deputy Convener: Paragraph 5 of the forward work programme refers to the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999. We agreed that we would introduce a committee bill to revise the members' interests order. I remain concerned that the committee bill might not be enacted before 2003, because I feel strongly that changes to the members' interests order should be in place before the next intake of MSPs arrives. Otherwise, we will lose the work that we have undertaken. It is imperative that the new members' interests order is in place, so that people know from day one what they can and cannot do. It would be wrong for us to change the order about six months after May 2003. I would like a tighter time scale on the review of the members' interests order.

Lord James Douglas-Hamilton: The present order is strongly in place. The timetable depends on the evidence taking. Past attempts to hurry the committee's work have not always succeeded.

The Deputy Convener: That is why we need a time scale for action, to ensure that our bill has the best chance of being adopted before 2003. Perhaps the clerks could come back to us on that.

Our final agenda item is our arrangements for introducing a standards commissioner committee bill. As agreed at the beginning of the meeting, we will take that item in private. I ask the public, press, official report and broadcasting staff to leave the meeting.

10:19

Meeting continued in private until 10:26.

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