

STANDARDS COMMITTEE

Wednesday 13 March 2002
(*Morning*)

Session 1

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STANDARDS COMMITTEE

5th 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:

Alex Johnstone (North-East Scotland) (Con)

WITNESSES

Mr George Reid (Mid Scotland and Fife) (SNP)

Alan Smart (Scottish Parliament Broadcasting Office)

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

Committee Room 3

Scottish Parliament

Standards Committee

Wednesday 13 March 2002

(Morning)

[THE CONVENER *opened the meeting at 10:03*]

The Convener (Mr Mike Rumbles): Welcome to the fifth meeting in 2002 of the Standards Committee. I extend a particularly warm welcome to George Reid, who joins us for item 2.

Item in Private

The Convener: Our first task is to consider how to take agenda item 4, which is continued consideration of two reports by the standards adviser. Given that under our rules for investigative procedures the item should be taken in private, I propose that we do so. Do members agree?

Members *indicated agreement.*

The Convener: I shall hand over the chair to the deputy convener, if she is here, for the final two items on the agenda. If Tricia Marwick is not here, we will have to postpone those items until she is available to chair the meeting, because I am personally acquainted with one of the complainers and it would not be appropriate for me to chair that part of the meeting.

Cross-party Groups

The Convener: Agenda item 2 relates to the broadcasting of meetings of cross-party groups. The rules in the code of conduct prohibit cross-party groups from using the Parliament's broadcasting facilities to broadcast their meetings. We are joined by George Reid, who has raised the issue in a letter that has been circulated to members. We are also joined by Alan Smart, who is the head of the Parliament's broadcasting office. I thank both witnesses for coming along this morning and invite George Reid to say a few words about his letter.

Mr George Reid (Mid Scotland and Fife) (SNP): Before I speak on the specifics of the letter, I will touch on the generalities of cross-party groups. When the consultative steering group considered this area, it saw cross-party groups as part of general outreach from the Parliament, working in partnership with the people of Scotland. That aim has been achieved where groups have invested in organisation and work plans in the areas of disability, health and refugees.

My group—the cross-party international development group in the Scottish Parliament—meets 10 times a year. The group has brought together for the first time the 60 or so relief and development agencies in Scotland. The United Nations, the Department for International Development and the Minister of State at the Scotland Office, George Foulkes, have endorsed the group.

Clare Short has accepted our invitation to address the group on 7 May. That will be the first time that a Westminster Cabinet minister has come to the Parliament. If that meeting were broadcast, there would be three advantages. First, staff and parliamentarians who are not in the room could watch the meeting. Often our meetings are overcrowded and only standing room is available. The broadcast of the meeting would be available on ring mains. Secondly, a tape could be provided for the DFID's missions around the world. Thirdly, if the meeting were webcast, it could be watched live from the Scots Parliament around the world.

The only people who are discriminated against in the current regulations on the use of the broadcasting service are cross-party groups. If I had gone to the Scottish Parliamentary Corporate Body as a private individual MSP and said that I would like the meeting to be covered, that would have been allowed. We are stuck with what is in the code.

I am not suggesting that all cross-party groups could make use of broadcasting facilities on all occasions; the facilities would have to be used in

exceptional circumstances. Any broadcasts should be distinguished by captions that can be put on screen.

I do not think that there would be many resource implications. My understanding, from Alan Smart, is that staff could be re-rostered over their lunch hour. If meetings were televised at night, there would be minimal costs of something like £25 for an audio engineer and £30 for a vision engineer or director. The cameras are paid for and the webcasting service is absolutely continuous under the terms of our contract as a Parliament. In fairness, I should say that if a commercial organisation provided the resources, they would cost something in the order of £250 an hour. I do not see why the Parliament should charge groups for the service.

In summary, the broadcasting service could be used in exceptional circumstances. The presupposition would normally be against that, as it is at Westminster. Applications should be made to the corporate body for derogation. Perhaps the corporate body would devolve a decision on that to the chief executive of the Parliament. In the case of a major figure such as Clare Short, such broadcasting—which says something of major importance to British foreign policy effort around the world—would be worth while. It would show the Parliament at the centre of national life and discussion of national issues.

The Convener: Thank you very much. George Reid and Alan Smart are here to take questions. I throw the floor open to committee members to express their views and to ask questions.

Mr Kenneth Macintosh (Eastwood) (Lab): I have questions on two areas, the first of which is the rules by which we would decide which group meetings could be broadcast. There is a plethora of groups; I think that there were 47 at the last count. The nature of the game would be such that everyone would want their meetings to be televised at certain stages, if not constantly. How would you draw up the criteria that would be used to decide which meetings would be broadcast? Would the Standards Committee or the SPCB decide those criteria?

My second question concerns resources, but I shall let you answer my first question before I ask about that.

Mr Reid: The presupposition would have to be against broadcasting meetings. Applications would have to be made to the corporate body, because that is where the buck stops for exceptional permission. The decision might be devolved to the chief executive. The standards would normally have to be—as they are for emergency questions—that the issue was of national importance and immediacy. Any criteria beyond

that would be too tight.

Mr Macintosh: I should declare an interest: I am a member of the IDG.

My second question concerns resource implications. As a general rule, the cross-party group meetings do not go on beyond 7 or 7.30, but the proposals would have significant implications. There is a cross-party group meeting every Wednesday and Thursday lunch time and most Wednesday and Thursday evenings. If those meetings were to be televised, would that not have implications for Alan Smart's staff?

Alan Smart (Scottish Parliament Broadcasting Office): It would have implications if all the cross-party groups wanted their meetings to be televised. The Scottish Parliamentary Corporate Body—or somebody somewhere along the line—must have criteria.

The use of terms is important. At one level, the rule that

“Groups may not make use of the Parliament's audio or broadcasting equipment”

is almost ridiculous. It means that if a cross-party group meets, as we are meeting now, it cannot use the microphones. That is absurd. With respect, Labour group and Scottish National Party group meetings make use of the microphones.

Kay Ullrich (West of Scotland) (SNP): No we do not.

Alan Smart: They have certainly been used on occasion.

Kay Ullrich: We just shout at one another.

Alan Smart: I have never been to the meetings, so I can only defer to you.

Kay Ullrich: Lucky person.

Alan Smart: The use of the audio system in the room is a simple matter. It is almost absurd to prevent people from using what is in front of them. However, filming meetings is fundamentally different from televising them, which implies that the meeting goes out on the telly. The filming of a meeting, for which the corporate body had given permission for the facilities to be used, would be a step up from using the audio system. A third option that members might wish to consider is the use of the webcasting facilities and the Parliament's in-house television network, which is the Parliament's only broadcasting facility.

To answer the question directly, the resource implications of the proposals could be large. We must ask how the proposals would be resourced and whether a charging policy should be introduced for meetings that continue after a certain time. It would be possible to manage lunch time meetings. We would have to keep a constant

eye on the issue; it is my job and my staff's job to do that.

On a positive note, the experience of the broadcasting staff who work for the Parliament and the contract staff who work for the BBC is that they enjoy doing cross-party group meetings because they are different and represent something of a challenge. They are a break from the routine of committee meetings—when you have been to one committee meeting, you have been to them all.

The Convener: Surely not.

Tricia Marwick (Mid Scotland and Fife) (SNP): You will not be invited back.

Alan Smart: I am not saying that the cross-party group meetings should be broadcast to entertain my staff or to make our lives more interesting. However, the committee should not be reluctant to make recommendations on the grounds that we would regard such meetings as a bit of a burden or a pain—that is not the case. It might become a pain if all 47 groups wanted TV coverage in the same month.

Mr Frank McAveety (Glasgow Shettleston) (Lab): I have never sought TV coverage. I do not understand it.

In your professional judgment, was the interactive website forum for the members' business debate on chronic pain on 27 February a successful example of the kind of discussion that can take place in the Parliament?

Alan Smart: Yes, but the crucial difference is that the forum was connected to an official parliamentary debate; it involved the use of parliamentary resources to promote, and involve people in, official parliamentary proceedings.

Mr McAveety: Did anyone estimate that the scale of the response would be as high as it was? That is the interesting feature of the debate, irrespective of the technical rules under which you operate.

Alan Smart: It was a new thing so we were not sure what the response would be. It was not only the technology that made the forum a success; if I can be semi-political, the forum was based on a hidden issue that the debate brought out. The forum provided people with a good platform. We should not assume that just because we televise and webcast a debate and set up an interactive forum, thousands of people will get involved. We still require the right issue.

Mr McAveety: I am not unsympathetic to George Reid's letter, but will he give a definition of "support across the parties" and

"a subject of national importance"?

There is potential for different definitions.

Mr Reid: The IDG is so constituted that there is a member from each of the parliamentary groups and one from the troika. Last week in the IDG, we considered population concerns—Susan Deacon was there. In reality, it was an attack on the Bush Administration's withdrawal of reproductive health care around the world. In my view, that would not be an appropriate subject to pump out, although some might disagree. We would always have to ensure that we had squared it off with the groups in the Parliament, so that we were not offending across the board.

Mr McAveety: What about the definition of "a subject of national importance"?

Mr Reid: That would always involve a value judgment. However, in the case of the visit of Clare Short—a distinguished Secretary of State for International Development who is doing some pretty important things—a speech in the Parliament on the war on terrorism and the relief of poverty is clearly of national importance.

10:15

Tricia Marwick: My first reaction to this subject is that I do not think that the cross-party groups should use the Parliament's broadcasting facilities. I have several reasons for saying that. A number of things are going on out on the fringes of the Parliament, which may impact on or detract from the work that is going on in the Parliament and its committees. I would be uncomfortable if the cross-party groups were filmed and that footage was used rather than footage of the valuable work that is being done by the committees. I am thinking about Scottish Television's very good programme on Thursday nights, on which the work of the committees is shown. Any diminution of that coverage would worry me.

However, I understand the importance of Clare Short's visit and the importance of its coverage. If we agree to this exceptional use of broadcasting facilities, it would be for the Standards Committee, which is responsible for monitoring cross-party groups, to draw up the criteria according to which the corporate body can judge any such requests. That should not be a matter for the corporate body. The Standards Committee is responsible for suggesting and monitoring the Parliament's code of conduct, and we should draw up those criteria. I would have to be convinced that something was a matter of national importance before I would agree to allow groups to have access to the broadcasting facilities. I agree with that access on this occasion, but I would need to be persuaded on future occasions. The criteria would have to be extremely strict. I am very uncomfortable about the whole thing.

Kay Ullrich: In many ways, I agree with Tricia Marwick. In this instance, I agree that television broadcasting should be permitted. Obviously, George Reid agrees that the criteria must be very specific. However, I am not sure how specific the phrase "of national importance" is. That seems a rather wide criterion. Like Tricia Marwick, I think that it should be up to the Standards Committee to decide. If we agree that the broadcast should go ahead, we will have created a precedent whether we like it or not. The Standards Committee should draw up the guidelines and we should look for a much more specific phrase than "of national importance".

Lord James Douglas-Hamilton (Lothians) (Con): I do not object to this application on an exceptional basis, to be cleared by the corporate body on application being made. Nonetheless, I am slightly concerned about the issue of resourcing.

I have not checked up on this, but I understand that, in the House of Commons, all-party groups from time to time make use of broadcasting and television. However, they do not use the House's facilities; the facilities are brought in by outside television broadcasting agencies. If the Parliament were to provide such broadcasting services, it would be like giving a form of subsidy to one all-party group but not to others. It could lead to enormous ructions and problems within the Parliament if we gave assistance to one group and not to another. Members would question whether the merits of one group were considered to be of greater importance than those of other groups. That is a difficult area to enter into. Could we have a paper on how the system operates in the House of Commons? We might not wish to follow that system, but it would be useful to know how the House of Commons has dealt with the issue. It must have had thousands of requests along the same lines.

In principle, I am not against what George Reid says about broadcasting cross-party group meetings on an exceptional basis upon application. If that provision went ahead, it would be important to review it after one year of operation to find out whether there had been any problems and whether there was any case for extending the provision. We need to know a little more about previous practice on resourcing all-party groups in the United Kingdom Parliament in the manner proposed.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): George Reid mentioned that, if he had set up the meeting as an individual MSP, there would be no problem. He said that the barrier is that a cross-party group is not allowed to use the broadcasting facilities. I ask him to elaborate on that a wee bit.

Mr Reid: If I am correct, only cross-party groups are specifically prohibited in the code from using the Parliament's broadcasting facilities. As individual MSPs are not mentioned, I think that one could write individually to Sir David Steel as chairman of the Scottish Parliamentary Corporate Body and ask for broadcasting for X, Y and Z. That applies also to Alan Smart's point on audio coverage.

Susan Deacon: That is an important point, given that our primary concern is about the rules of the Parliament. Such an inequity, whereby an individual MSP could make such an arrangement with permission but cross-party groups are explicitly prohibited from doing so, strikes me as anomalous. I take what you have told me at face value, because I have not looked into the matter.

If the use of broadcasting facilities by cross-party groups is strictly on an exceptional basis and does not become the thin end of the wedge, that is fine. It is in the Parliament's interests that events such as the one that George Reid has set up have wider coverage. I have some sympathy with Lord James Douglas-Hamilton's views on who picks up the tab, but that is not a reason for saying no to the request. I agree that "exceptional" would have to mean just that.

Kay Ullrich: That is my concern. I am concerned that cross-party groups would suddenly start playing to the television cameras at the expense of the kind of work that they have been doing. They might even feel that they have to think up events that they can have televised. That would detract from the ethos on which, I hope, the cross-party groups work.

Mr McAveety: I presume that the reason for the current rule is resource implications.

Lord James Douglas-Hamilton: The request is an important new development. The mood is in favour of proceeding with the provision of broadcasting facilities for cross-party groups on an exceptional basis. It would be helpful if, before we make a final decision, we could have information on how the matter has been dealt with elsewhere.

The Convener: I hear the committee's questions and comments. I ask the clerks to produce a paper for our next meeting covering the points that Lord James has raised. I also ask the clerks and the legal team to draw up an amendment to the code of conduct to change the rules to allow for the requested provision

"on an exceptional basis, on a subject of national importance",

that would give us a little bit more detail on what we mean by those two phrases. We will consider both papers at our next meeting in a fortnight's time. Are members content with that approach?

Members indicated agreement.

The Convener: Agenda item 3 is a proposal to establish a cross-party group on international trade and investment. If there are no comments on the application, I assume that the committee is content. I will write to the convener of the proposed group to indicate that.

Agenda item 4 is continued consideration of two reports from the standards adviser. As agreed at the beginning of the meeting, the item will be taken in private and Tricia Marwick will convene.

10:24

Meeting continued in private.

10:53

Meeting continued in public.

Complaints

The Deputy Convener (Tricia Marwick): I thank members of the public and press for their patience and welcome Alex Johnstone to the meeting.

Our final item of business this morning is to complete consideration of two reports from the standards adviser concerning two complaints against Alex Johnstone and to decide whether there has been a breach of the code of conduct. Both complaints relate to statements attributed to Mr Johnstone that appeared in a leaflet published during a local by-election in Aberdeenshire.

The first complaint is from Alan Campbell, the chief executive of Aberdeenshire Council. Mr Campbell highlighted the leaflet's assertion that Mr Johnstone had expressed concern about an apparent deterioration in communication between him and Aberdeenshire Council, and had questioned whether co-operation had been curtailed in order to protect the interests of the Liberal Democrat-controlled council. The complainer expressed concern that an MSP

"is prepared to print criticisms of local authority employees and openly question their integrity and professionalism in the form of a leaflet that is circulated on the morning of an election."

The adviser has concluded that there has been no breach of the code of conduct. We must now decide whether we accept that finding. I ask members for their views.

Mr Macintosh: We considered both complaints in detail. I do not believe that Alex Johnstone acted in breach of the code of conduct or of confidentiality with regard to the first complaint, although I would not want to encourage misplaced criticism of local authorities. The same applies to the second complaint.

The Deputy Convener: For the moment, I would like us to deal only with the first complaint, which was made by Alan Campbell, the chief executive of Aberdeenshire Council.

Mr McAveety: The information with which we have been provided indicates that there has been no breach of the code of conduct. However, I want to put on record the general principle that elected members need to be careful when dealing with the sensitive issue of relationships with local government. I am sure that Alex Johnstone recognises that. Our criticisms of local government, which are sometimes generated in the heat and light of election campaigns, need to

be robust and able to stand up to scrutiny. We should always bear that in mind when making such criticisms. I do not believe that the member has breached the code of conduct. For that reason, Mr Campbell's complaint should not be upheld.

Susan Deacon: I agree with the view that other members have expressed. I do not think that in this instance there has been a breach of the code of conduct, so the complaint should not be upheld. I concur with the general comments that other members have made about the need for members to act sensitively in circumstances such as those with which we are dealing, but I do not believe that there has been a breach of the code.

Kay Ullrich: Like other members of the committee, I do not think that there has been a breach of the code. For that reason, the complaint should not be upheld.

Lord James Douglas-Hamilton: My finding is that in this instance there has been no breach of the code.

The Deputy Convener: I accept the adviser's report and the views expressed by other members that in this instance there has been no breach of the code of conduct.

The second complaint is from Mrs Lynn Millar and relates to another statement attributed to Alex Johnstone in the same leaflet. Mr Johnstone is quoted as saying:

"I am still awaiting a reply from Aberdeenshire Council after I asked it to investigate concerns from a constituent regarding Mrs Lynn Millar, the Liberal Democrat candidate in this Thursday's by-election, and planning regulations."

The complainer expressed concern about the inclusion of that information in the leaflet and questioned whether it was acceptable for Mr Johnstone to publicise it in that manner.

The adviser has established that Mr Johnstone accepts that the statement contained in the leaflet is his and that he authorised its inclusion in the leaflet. The adviser has drawn the committee's attention to two paragraphs in the code of conduct. Section 2.5 of the code states:

"In representing people's interests, members have a duty to respect individual privacy, unless there are overwhelming reasons in the wider public interest for disclosure to be made to a relevant authority, for example where a member is made aware of criminal activity."

Section 9.1.1 of the code states:

"Members of the Scottish Parliament are accountable to the Scottish electorate who will expect them to carry out their Parliamentary duties in an appropriate manner consistent with the standing of the Parliament and not to engage in any activity as a member that would bring the Parliament into disrepute."

The adviser has sought the committee's

decision on whether the facts as presented in his report breach either of those provisions. I will once again go round the table and ask members to sum up their views.

11:00

Mr Macintosh: I have some sympathy for the complainant, Mrs Lynn Millar, particularly given the fact that the concern raised against her was thrown out by the local council. I particularly welcome the fact that Alex Johnstone has offered to write to Mrs Millar. In this case, we see that there are many circumstances in which it is in order to publicise concerns about somebody who may hold a position of public office. In the circumstances, I do not believe that a complaint should be upheld against Alex Johnstone.

Mr McAveety: I have had a good look at the adviser's report. I think that some of the member's conduct was regrettable, but it was not in breach of the code of conduct. It is paramount that, as members, we deal with matters in a way that protects the privacy of our individual case load. I welcome the fact that the member has indicated that he will write to the complainant—it would be interesting to see the response, mind you—and so I am happy to say that I support the adviser's report. I accept that the member's conduct could be viewed as regrettable, but it does not represent a breach of the code of conduct.

Susan Deacon: I viewed this complaint as quite different from the first one, not least because an individual was involved and the matter was quite serious. I thought that it was significant that, when the unsubstantiated allegations were made, the information had been gleaned during the course of Alex Johnstone's work as an MSP, as the adviser's report states. I believe that the conduct was regrettable, but having considered the matter carefully, I do not believe that there was a breach of the code of conduct. I certainly think that all members ought to show due regard to individual privacy, so I regret the conduct in this case, albeit that I am content to agree that the code was not breached.

Kay Ullrich: Similarly, I recognise the concerns that members have about the conduct. Perhaps this case should be a lesson to us all, especially in the heat of battle in an election campaign. Like the other members of the committee, I do not find that there has been a breach of the code of conduct. I also commend Mr Johnstone on his willingness to write to the complainant.

Lord James Douglas-Hamilton: My finding is that there was no breach of the code of conduct. Freedom of speech and freedom of expression are important democratic principles and we should be careful not to restrict those freedoms. I am also

mindful of the fact that Mr Johnstone has offered to write to the lady concerned.

The Deputy Convener: Like the other members of the committee, I find that there has been no breach of the code of conduct. I welcome Alex Johnstone's expression of regret and the fact that he will contact the constituent. We thank him for that.

Alex Johnstone (North-East Scotland) (Con): I would like to thank members of the committee for the views that they have expressed and to reinforce the views that were contained in my letter. It is a matter of extreme regret to me that my views—I freely admit that they were mine—were carried in such a way as to cause such embarrassment to the lady involved. I will genuinely apologise to Lynn Millar for the way in which the views were expressed and for the offence that she took to them. I will write in the terms that I set out in my last communication to the committee and will ensure that the views in the letter are expressed to the satisfaction of members of the committee and its convener.

The Deputy Convener: Thank you very much for that. The committee will consider and publish a report, which will be available in due course.

Meeting closed at 11:04.

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