

STANDARDS COMMITTEE

Wednesday 27 March 2002
(*Morning*)

Session 1

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STANDARDS COMMITTEE

6th 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

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

Committee Room 3

Scottish Parliament

Standards Committee

Wednesday 27 March 2002

(Morning)

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

Item in Private

The Convener (Mr Mike Rumbles): Good morning and welcome to the sixth meeting in 2002 of the Standards Committee.

Agenda item 1 is to consider how to take the final item on our agenda. As that item includes consideration of draft directions for the Scottish Parliamentary Standards Commissioner Bill, I propose that it is appropriate to take it in private. I stress that, once we have agreed the draft directions, they will be available to all members and to the ad hoc committee on the bill to inform debate at stages 2 and 3. Are members content to take that item in private?

Members *indicated agreement.*

The Convener: I have had apologies from Susan Deacon. She will join us at about half-past 10.

Cross-party Groups

The Convener: Agenda item 2 concerns cross-party groups. At our previous meeting, we considered a request from George Reid to permit the broadcasting and webcasting of cross-party group meetings in exceptional circumstances. As requested, the clerks have prepared a further issues paper, which sets out the arrangements at Westminster. The legal office has prepared a draft amendment to the "Code of Conduct for Members of the Scottish Parliament" for our consideration. The floor is now open for members' views. I hope that everyone has had a chance to read through the paper that the clerks have prepared.

Tricia Marwick (Mid Scotland and Fife) (SNP): I am happy that, in exceptional circumstances, cross-party groups should be able to use the Parliament's broadcasting facilities. That means that there should be a change to the code of conduct. I am not sure that we should have a debate in the chamber on that alone, as that would mean taking parliamentary time to make one change to the code. Is it possible for us to indicate on the record that it is our intention to change the code of conduct at some time in the future and that we wish to advise the Scottish Parliamentary Corporate Body in the meantime that we would agree to such use of the broadcasting facilities in exceptional circumstances?

To agree a request from a cross-party group to make use of the broadcasting facilities is not simply a matter of whether the resources are available—that is a matter for the SPCB. The committee needs to monitor the frequency of such requests and whether we agree to them. We should monitor requests over a specified period so that, perhaps after six months, we can change the code of conduct in the light of information about the likely demand.

The Convener: I have just had further advice from the clerks that, if we agree to the change suggested in the paper, the SPCB would also have to agree to it and it would have to be endorsed by a meeting of the Parliament. That does not mean that there has to be a debate. A motion could be lodged and voted on without debate if the Parliamentary Bureau agrees. That would be a straightforward exercise and would not take up parliamentary time.

Mr Kenneth Macintosh (Eastwood) (Lab): I welcome the paper. Having thought about it, I have more concerns about the matter this week than I had when we thought about it previously, despite my membership of and enthusiasm for the cross-party international development group in the Scottish Parliament.

The strongest point that George Reid made in his letter is that the Parliament should sometimes be more proactive in promoting its work and interests. That is a strong argument, but I am concerned about the suggested definition of what is exceptional and what is not. The proposed amendment to the code of conduct would mean that decisions were taken

"with 'regard to the importance of the meeting to the general public' and on an 'issue of national or international interest'."

That definition is wide and vague. I suggest that virtually everything that we do in the Parliament is by definition of national interest. What we do is obviously of more interest to some people than it is to others, but it is of national interest. I do not find the definition helpful. It does not offer criteria that would reassure me that decisions were clear on what are and are not exceptional circumstances.

We should make more of what is discussed at cross-party groups. However, I can envisage a situation in which, when one cross-party group gets permission to use parliamentary resources to broadcast its discussions, other cross-party groups will feel aggrieved if it is not clear why that decision was taken.

I am a member of many cross-party groups. Cross-party groups are valuable and should continue, but I know that there are concerns about some of them. Some cross-party groups are more cross-party than others and some are more rigorous in their procedures, especially in relation to their membership and how they are convened. As a rule, cross-party groups are not as rigorous as parliamentary committees. We have to be careful when we give added legitimacy to particular discussion bodies, which might make a valuable contribution but do not necessarily reflect the views of the Parliament. I have concerns and I am not particularly reassured by the definition in the paper. I would like further work to be done on the definition before agreeing to it.

The Convener: Do you disagree with the principle? You seem to have a separate concern about the wording of the proposed amendment. Are you opposed to the principle because there are other options available—for example, members of a group can bring in their own cameras? I want to clarify your position.

Mr Macintosh: If I were reassured about the criteria by which a decision is taken to allocate parliamentary resources to a cross-party group, I would have no particular objection to the principle. However, I am not reassured by the wording in the paper. I can think of many situations where I do not agree with the position of a particular cross-party group. For example, the cross-party group on Palestine recently proposed a boycott of Israeli

goods. That is fine. The topic gained a lot of support and received a fair amount of media publicity—the group may even have been filmed—but the group's position is not something with which I agree. Nevertheless, it could easily be argued that the issue was of importance to the general public and of national interest.

The Convener: Your concern is that we might be opening the door.

Mr Macintosh: Yes. I would object to certain issues being given preferential treatment.

Kay Ullrich (West of Scotland) (SNP): I share those concerns. George Reid made a legitimate case for resources to be made available in special circumstances, but I am concerned that we are opening the floodgates. The proposed change could also skew the work of the cross-party groups, because certain members could decide that using the Parliament's broadcasting facilities would be a good way of publicising a particular cause. We might find that the groups would start playing to the cameras rather than getting on with the work that they were set up to do. Perhaps I am being an old cynic, however.

Lord James Douglas-Hamilton (Lothians) (Con): George Reid mentioned that Clare Short would address the cross-party international development group in her capacity as Secretary of State for International Development and would speak on

"relief and development programmes worldwide."

There is a good case for regarding that as exceptional circumstances of general interest—I am sure that it would fit with any definition of "exceptional circumstances".

Cross-party groups should be allowed to make their own arrangements with outside groups if they want publicity—that is what happens in the House of Commons. I understand that all-party groups in the House of Commons are never broadcast through official channels, but are frequently broadcast unofficially, at their own cost. There should not be a bar on a cross-party group taking that approach if it so wished.

Perhaps we could have a trial period of six months or a year, to be followed by a review. Ken Macintosh made some relevant points. We must gauge whether we are opening the floodgates. I would have thought that "exceptional circumstances" would apply only to events of comparable importance to an address by Clare Short.

Kay Ullrich: I agree with Lord James Douglas-Hamilton's comments about a review, but I suggest that we wait no longer than six months.

Mr Frank McAveety (Glasgow Shettleston)

(Lab): In giving evidence, George Reid referred to “exceptional circumstances”, where

“the issue was of national importance and immediacy.”—
[*Official Report, Standards Committee*, 13 March 2002; c 971.]

Is that reflected in the recommendation? Would it address the issue that Ken Macintosh has raised?

At the moment, we do not have any powers to allow for broadcasting even the Clare Short visit, which is obviously an important event. In a sense, either we would be requesting facilities for that one event and then not examining a change, or we would be saying that, in principle we need to seek a change to allow the event to be broadcast followed by a six-month period in which we could examine the situation. It is interesting that no one has asked the SPCB for the use of facilities, although it is open to individual members to do so. That suggests either that members do not know that that is possible or that they have chosen not to exercise that right. We know how to publicise an issue and I would have thought that people would have taken up that opportunity.

First, it is important that we have a temporary arrangement, which can be reviewed after six months. Secondly, we should review whether requests are made by cross-party groups or by individuals. If there were an over-preponderance of certain individuals requesting broadcasting, we might want to suggest a cap. We could say that members are allowed one golden opportunity a year—if they are lucky.

10:15

Mr Macintosh: I agree with Lord James’s main suggestion for a review. However, we should make it clear that there is currently nothing to prevent any cross-party group from inviting cameras into a meeting. If a broadcasting company has an interest in a subject, it will cover it. The advantage of using our own facilities is that that is more proactive, as George Reid suggests. As a former television producer, I know that, much as I would like to think that all broadcasting companies take strict editorial decisions on whether to broadcast something, they are more likely to broadcast it if one supplies pictures. I am referring to certain broadcasters—not the BBC, of course.

Mr McAveety: Is that an interest?

Mr Macintosh: A former interest. My concern is not entirely addressed by the proposal for a review. I am concerned that the criteria by which a decision would be made are not clear. I agree that the speech by Clare Short should be broadcast because it is clearly not contentious and the cross-party international development group is a

particularly good example of a cross-party group. However, there are many other issues that would be contentious. Although requests would have to go through the Standards Committee and the SPCB, I would prefer that they did not have to come to the Standards Committee for a ruling. It should be clear from the rules whether something should be televised.

I am a member of the cross-party group on cancer—I am co-convenor—and we are soon to host a cancer conference. That is a big event. It will not be held in the Parliament, so it does not involve the Parliament’s broadcasting facilities, but it is the sort of event that it would be suitable to televise. I can imagine drawing up the rules in order to emphasise the fact that an event must be of a cross-party nature and must involve a certain amount of time and investment, for example. I can imagine such rules, but they are not the ones that are set out in the paper. The proposal is bland, vague and wide; it is not specific enough. It is too ambiguous and would leave room for resentment.

The Convener: We seem to be agreed that we should allow such requests on a six-month trial. How content are we with the words of the amendment? I must clarify that there are 44 cross-party groups and that they are not differentiated. The Standards Committee is responsible for keeping an eye on the cross-party groups, which, as far as we are concerned, are of equal value.

Mr McAveety: No matter what we do, any decision is still a matter of judgment. We could sharpen up the terminology, but any issue could, if so presented, be deemed to be of national or international importance. We are shooting in the dark here on when the situation could pop up. We all have our views about how we could construct a motion for the Parliament to consider, but it should be relatively tight on the issues of cost and resources. The Standards Committee should be the gatekeeper.

The Convener: I am conscious of time marching on. If we approve the wording of a motion, it has to go to the SPCB and then the chamber.

Sam Jones (Clerk): The next meeting of the SPCB is on 16 April. I am not sure whether we can get the matter on to the agenda but, if the committee agrees, we could certainly ask. The Parliamentary Bureau meets on 23 April. If the SPCB agreed, we could ask the bureau whether it would be happy for there to be a motion without debate, which is what happened with the previous change to the rules on cross-party groups last year. The motion would be moved on 1 or 2 May, which would be in time for the 7 May meeting on international development for which George Reid has made the request.

The Convener: The recess is coming up, so we must make some decisions. We could ask the clerks to e-mail committee members with a suggested text. Would anyone else like to contribute before I move the process on?

Mr Macintosh: Just to clarify that, we could agree on the wording for the motion today, subject to amendments—

The Convener: That wording would be circulated to everyone. I want to ensure that everyone is happy with the motion.

Mr Macintosh: How would we approve the changes?

Mr McAveety: Do we agree on the principle of the motion, then consider and agree on the wording?

The Convener: What we can do now is to agree in principle that we need to amend the code of conduct. We are agreed that the change should be made to the code of conduct for a maximum of six months, after which we will consider it again and review how it has worked in practice. Kenny Macintosh and Frank McAveety are not particularly happy with the wording of the motion. I suggest that the clerks e-mail the revised text to us. If we are content with that, we will respond as such. I am conscious of the timing of our meetings.

Sam Jones: The next meeting of the committee is 24 April.

Mr Macintosh: The informally amended motion will come back to us after it has been to the SPCB, so we will have a chance to cast our eyes over it again.

Sam Jones: By correspondence.

The Convener: The correct procedure is that we suggest an amendment to the code of conduct. That must go to the SPCB, as the proposal involves the use of facilities. However, the decision about the amendment is ours.

Tricia Marwick: What the convener and the clerk are saying is that we must go through that process because a change to the code of conduct must be debated by the Parliament prior to the meeting of the cross-party group on international development. If we do not keep to the time scale, we will lose the opportunity to change the rules in time for the meeting with Clare Short to be televised. That is why it is suggested that we sign off our agreement in principle today. However, the wording of the text can be agreed by e-mail.

The Convener: Are you content with that?

Mr Macintosh: I think so.

The Convener: Having got an “I think so”, we will move on.

Tricia Marwick: I think that that is the best that we will get.

The Convener: The clerk has requested me to ask whether there are any further suggestions for the wording of the motion. We do not want to keep banging this backwards and forwards.

Mr McAveety: We should quit while we are ahead.

Tricia Marwick: I am content to leave the wording to the convener, the clerk and Ken Macintosh, who seems to have the major concerns.

Mr McAveety: You have the wisdom of Solomon for the rest of us, convener.

Tricia Marwick: I am sure that Ken Macintosh, the clerk and the convener can come up with a form of words that would be acceptable to the rest of us. I would be happy to remit the issue to the three of them.

The Convener: Thank you.

Committee on Standards in Public Life (House of Commons)

The Convener: The next item is to consider whether we wish to make a submission to the Committee on Standards in Public Life—the Wicks committee, as it is known—in relation to its inquiry into standards of conduct in the House of Commons. The Wicks committee has indicated that it wishes to draw on the experiences of the devolved legislatures. Members will note that the issues and questions paper touches very much on our work on lobbying, for instance.

It would be appropriate for us to make a written submission that summarises the work that we have done on lobbying, the Scottish Parliamentary Standards Commissioner Bill and the members' interests order. My view is that we should not comment on the current arrangements at Westminster. If we present a paper to the Wicks committee making clear what we have done, the members of that committee can draw their own conclusions. That is my view, but I would like to hear members' views.

Lord James Douglas-Hamilton: There is general support for your suggestion. It is useful for the Committee on Standards in Public Life to have the information, but we do not need to get deeply involved in the affairs of that committee.

The Convener: As there are no other comments, is everyone happy with that suggestion?

Members indicated agreement.

Members' Interests Order

The Convener: Let us move quickly on to agenda item 4, which concerns our work on replacing the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999. We have already agreed that any proposals for replacement legislation should, if possible, be considered in this parliamentary session. The time scale is tight, to say the least.

To enable any proposed committee bill on the members' interests order to be published prior to the summer recess, we should aim to take oral evidence at our next meeting, which is on 24 April. We need to consider possible witnesses today, so as to ensure witness availability. I stress that that will not preclude us from calling further witnesses at our first meeting in May, when we might wish to take more evidence in the light of the responses to our written consultation exercise, which closes on 15 April. However, it would be helpful to start the process now. Do members have any thoughts about witnesses?

Tricia Marwick: Any individual MSP who has expressed strong views on the members' interests order should have the opportunity to give evidence. The members' interests order is for MSPs, so they should be the first group of witnesses. I am sure that we can identify which members have strong views.

I agree that we should invite members from the Wicks committee. I do not believe it necessary to invite representatives of the Convention of Scottish Local Authorities, but we should ask people who were on the consultative steering group. We should also consider consulting others on the question of non-pecuniary interests.

Lord James Douglas-Hamilton: I am in general agreement with what has been said. My only query is whether the Law Society of Scotland or the Scottish Consumer Council should be invited, but we do not need to decide that now. If we were to take evidence from the Wicks committee and the CSG, that would be a good start.

Mr Macintosh: As far as I am concerned, the list of witnesses that is suggested in the paper is fine. I am happy to go along with Tricia Marwick's suggestion. It is difficult to take a firm view until we have seen the written submissions, but I have no worries about the proposal that we initially take evidence from the Wicks committee and the CSG. I believe that COSLA would have something to offer, but I am happy to see its written submission first.

Mr McAveety: I believe that it is important to take evidence from COSLA on the ground that it

has a substantial responsibility for the code of conduct that was introduced under the Ethical Standards in Public Life etc (Scotland) Act 2000. We should hear the views of local government on that. Not to invite COSLA could allow some folk in local government to suggest that we do not value their experience. I accept that we sometimes overdose on asking COSLA, but I believe that, on balance, because of the role that it plays, it is better that it be invited.

I presume that, where the paper refers to the "Grand Lodge of Scotland", it means the Grand Masonic Lodge. I ask just in case. It may be interesting to see some of my constituents.

The paper suggests that representatives of other organisations, such as the unions and the voluntary sector, be invited. It might also be worth looking at the register of members' interests to check whether other organisations pop up. I want to be candid about the fact that at least seven of us have constituency plan agreements that are sponsored by the likes of the Scottish Co-operative Party. We need not necessarily invite the Co-op, but some of us have the same sort of relationship with the Co-operative movement that other members have with the trade union movement. For the sake of openness, we should at least give such people the opportunity to submit written evidence. We might also look at the register to see whether any other interests are popping up that have not crossed our line of vision.

Lord James Douglas-Hamilton: It might assist the committee if we asked the groups mentioned in the final paragraph of the paper to supply written evidence before our next meeting. If their written evidence is good enough, we will not need to call them. Otherwise—or if we have further queries—we could call them to give oral evidence.

The Convener: If I understand the gist of what has been said, we will take evidence from organisations that are interested in non-pecuniary interests later. However, we want to invite oral evidence from a member of the Committee on Standards in Public Life, from a representative of COSLA, from a former member of the CSG and from MSPs who have particularly strong responses.

Tricia Marwick: We should ask the Co-op movement to give evidence. I would like to ask why it does not sponsor me, even though I can still remember my mum's store number, which was 8058.

Kay Ullrich: Mine was 9218.

The Convener: Because of the number of suggestions, I think that we will need to have a second session of oral evidence taking. We have got the gist. Having identified whom we want to

question, we can decide on the type of questioning at a later date.

As agreed at the beginning of the meeting, we now move into private session for the final agenda item, which concerns the Scottish Parliamentary Standards Commissioner Bill. I ask members of the public, official report, press and broadcasting to leave the meeting please.

10:32

Meeting continued in private until 11:28.

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