

STANDARDS COMMITTEE

Wednesday 25 September 2002
(*Morning*)

Session 1

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2002.

Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Wednesday 25 September 2002

	Col.
CROSS-PARTY GROUP	1101
LOBBYING (CONFERENCE)	1102
LOBBYING	1102
DRAFT COMMITTEE REPORT (ALLEGED UNAUTHORISED DISCLOSURE)	1103
MEMBERS' INTERESTS ORDER.....	1107

STANDARDS COMMITTEE

13th 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 Kenneth Macintosh (Eastwood) (Lab)

*Paul Martin (Glasgow Springburn) (Lab)

Kay Ullrich (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Alex Johnstone (North-East Scotland) (Con)

Michael Russell (South of Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

Committee Room 3

Scottish Parliament

Standards Committee

Wednesday 25 September 2002

(Morning)

[THE CONVENER *opened the meeting at 10:00*]

The Convener (Mr Mike Rumbles): Good morning. We have received apologies from Tricia Marwick and Kay Ullrich, who are elsewhere this week, I believe.

Cross-party Group

The Convener: Our first item of business concerns an application to establish a cross-party group on kidney disease. We are joined by Margaret Jamieson, the convener of the proposed group, who will make a brief statement in support of her application.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): It is appropriate to indicate to committee members that we have had to go through this procedure because we wanted a short-lived group that would examine a specific issue. We have applied this late in the parliamentary calendar because we had to time our move appropriately.

Lord James Douglas-Hamilton (Lothians) (Con): We should support this application.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I agree. Given that we are currently undertaking a review of cross-party groups, we might want to think about promoting the idea of short-lived groups. That might be a productive innovation.

The Convener: Do we agree to approve the application?

Members indicated agreement.

Lobbying (Conference)

The Convener: Our next item relates to an invitation to a conference on lobbying in Budapest. We first considered the matter at our previous meeting and asked for further information about the organisers and the costs involved before making a decision. The clerks have prepared a short, comprehensive paper setting out the background to the conference, which I hope that everyone has read.

Mr Kenneth Macintosh (Eastwood) (Lab): I have no problem with the invitation. There were some issues about the way in which we received the invitation, but they were noted last time. I have no concerns about the conference.

The Convener: Do members agree that I should take the invitation to the conveners liaison group?

Members indicated agreement.

Lobbying

The Convener: Item 3 relates to a draft motion on lobbying for a debate in the Parliament on 3 October. Is everyone content with the wording of the motion?

Members indicated agreement.

Draft Committee Report (Alleged Unauthorised Disclosure)

The Convener: Item 4 relates to the alleged leak of a draft Justice 2 Committee report earlier this month. Members will have seen correspondence between me and the Justice 2 Committee convener, Pauline McNeill, who has asked us to consider investigating the alleged leak.

The complaint has been referred to the Standards Committee, as it does not name an individual member. Under the code of conduct, we may exercise our discretion to refer it to the standards adviser for his consideration regardless.

Members will recall that, following last year's inquiry into the confidentiality provisions in the code of conduct, we agreed that in future we would seek the views of the committee concerned before deciding whether to exercise our discretion. We decided that one factor that we would take into account would be the seriousness of the leak. We adopted that approach at our previous meeting in response to an alleged leak of a Justice 1 Committee report.

Pauline McNeill has provided additional information on the matter in an e-mail, which has been circulated to members. The matter was discussed at yesterday's meeting of the Justice 2 Committee and an extract from the *Official Report* of that meeting has been circulated to members. As members have just received that, they might wish to take a few moments to read it, because it is important.

While I wait for members to cast their eyes over that two-page extract, I inform them that I have had a good look at it. I draw members' attention to the second-last contribution from the convener, who stated:

"George Lyon is correct to say that we will never really get to the bottom of the leak. We never do with such matters."—[*Official Report, Justice 2 Committee*, 24 September 2002; c 1775.]

I will throw the matter open when members have read the extract. When members of the Justice 2 Committee were asked how seriously they took the matter, they replied that it was extremely serious. Another aspect of the issue that we must weigh up is how likely we are to achieve a result from asking the standards adviser to investigate.

Lord James Douglas-Hamilton: Is not the normal procedure for a committee to be asked to undertake its own investigations first?

The Convener: That is what we agreed. The Justice 2 Committee convener seems to feel that an investigation is not likely to provide any

information, but the committee has asked us to carry out an investigation. I am concerned about wasting the standards adviser's time, given that the Justice 2 Committee convener feels that an investigation is not likely to produce results.

Mr Macintosh: The *Official Report* confirms what we already knew from talking to colleagues and from the debate that followed the leak. Although there is always anger over a leak, members of the Justice 2 Committee were particularly animated and concerned about this one. Stewart Stevenson made an interesting point when he said:

"I would be surprised if anyone who was part of the committee would have been able to give that detail."—[*Official Report, Justice 2 Committee*, 24 September 2002; c 1773.]

That sort of information might be helpful if we refer the matter to the adviser for an investigation.

At this stage, we should take the usual action, which is to refer the matter back to the Justice 2 Committee and ask for further information. We note and share the members' concern about the seriousness of the issue and the damage that it does to the Parliament and to their committee, but we should ask for more information on possible sources of the leak before we take the matter any further.

Susan Deacon: The committee and the Parliament have discussed unauthorised leaks and disclosures at some length and I do not want to revisit too much of that territory. None of us is so naive as to think that briefing of various sorts will not take place in and around the Parliament. However, the Parliament quickly slipped into lax, casual and almost shoddy practices in respect of parliamentary committee reports, which contrasts markedly—for the worse—with the situation at Westminster.

I have no magic bullets on this, but somehow we need to take a lead in attempting to raise the standard specifically as far as parliamentary reports are concerned. Committee reports are qualitatively different from other debates, discussions and private meetings that happen to find their way into the public domain in one way or another. If the Parliament is serious about getting the media and, in turn, the public to give proper consideration to the work that is carried out through parliamentary inquiries and the like, it is vital that major reports are launched into the public domain properly, with the facts set out fully—not, as George Lyon said, on the basis that

"someone walked straight out of the private meeting at which we discussed the report and briefed journalists, giving them chapter and verse on the committee's internal discussions."—[*Official Report, Justice 2 Committee*, 24 September 2002; c 1774.]

That seems to have been what happened in this case.

I think that we should hand the matter back to the Justice 2 Committee, as is consistent with the procedures that have been established. However, we should ask that committee to conduct further active investigations and return to us when it has done that. It is important that we do not adopt the view that we will never get to the bottom of the matter and that we cannot do anything. For the reasons that I gave, we must attempt to go further.

We are all aware of cases at Westminster in which an individual has been found to be in breach of procedure in this respect and serious sanctions have been exercised. I can think of a specific case from not too long ago. If we are to get to the bottom of one of these leaks, perhaps a similar course of action should be taken in the Scottish Parliament to show that we take its rules seriously.

Paul Martin (Glasgow Springburn) (Lab): It is obviously unhelpful for members to comment while a committee is considering a report. For the benefit of the public, we must try to get that message across. Members should have the opportunity to develop the report and then release it to the public so that the public can understand it fully.

We are not good at spending time with journalists when we release a report, briefing them on the kind of debates that took place. Journalists all seem to be keen on getting information on the debates that took place prior to the report's distribution. That is an issue that we have to deal with. Since the Parliament began—probably since Westminster began—there have been demands from journalists for an exclusive release and some background to what was discussed during committee debates.

We must consider how we can get to the bottom of the issue without bringing in private investigators to find out who released the information. No journalist has ever revealed their source. We must make people aware of the difficulties that such a leak leads to for the committees.

As a member of the Justice 1 Committee, I know the amount of work that the Justice 2 Committee has put into the Criminal Justice (Scotland) Bill. It is unhelpful that information has been released prior to the completion of that work. It is perhaps not an issue for the Standards Committee, but we must think about how committees can brief journalists on an equal basis when they release a final document. Sometimes, journalists feel that briefings are carried out for particular journalists and complain that some are given priority over others.

I do not think that we will get to the bottom of the

matter. I would like to think that we would, but I wonder whether we are spending time on something that we will never achieve.

The Convener: Are you content to go along with the other three members who have voiced their concerns that I write to the convener of the committee and ask her to conduct a preliminary investigation and give the results of that investigation to the Standards Committee?

10:15

Paul Martin: Yes. We have to investigate whether we can identify the source of the leak. However, as with any other investigation, we have to ask what the chances are of the investigation being successful. They must be pretty remote.

We therefore have to consider other ways of dealing with that kind of demand for information. There will always be a demand for someone to leak information. Journalists will contact MSPs and claim to have information in the hope that the MSP will confirm it. We have all been subjected to that kind of interrogation.

Members need to be briefed that it is not helpful to release that kind of information before the public are made aware of it. We want the public to have full access but I keep repeating that we have to consider the way in which we release information when a final document is issued. It needs to be done equally for all the journalists who want that information.

The Convener: I will write to the convener. I will also enclose a copy of the *Official Report* of our discussion and ask her whether she would be willing to undertake a preliminary investigation within the committee. She can then come back to us if she believes that the issue needs to be pursued by the standards adviser. Are members content with that?

Members indicated agreement.

The Convener: I will emphasise how important we believe the issue is.

Members' Interests Order

The Convener: Our final item relates to our work on replacing the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999. We have to consider a short paper on paid advocacy and a draft motion for debate next week. Taking the draft motion first, are members content with what is proposed?

Members indicated agreement.

The Convener: Okay, I will move on to paid advocacy. Members should have an updated version of the paper with a new paragraph 5. The committee will see that the members' interests order currently states that members should not do anything in their capacity as an MSP in any proceedings of the Parliament in return for payment.

The committee will recall that, when we discussed our proposals for a new paid advocacy provision, we agreed that we did not want to specify prohibited activities such as lodging motions or lodging parliamentary questions, as that might create a loophole in respect of something that we had not mentioned. This morning, we are being asked whether we want to retain the existing wording, which links a member's actions to parliamentary proceedings.

As the paper points out, a member who, for instance, lobbied a minister or civil servant in return for payment would not be caught by the provision. Although he or she would be acting in their capacity as an MSP, the situation would be outwith parliamentary proceedings. One option, therefore, would be for the replacement provision to prohibit members from doing anything in their capacity as MSPs. What do members think about the issue?

Mr Macintosh: My first thought was that the members' interests order should prohibit members from doing anything in their capacity as MSPs; it should apply to the duties of our office and not just to part of our office or part of our duties. Is the wording used anywhere else? Do we have to be consistent? I am concerned that by introducing such provisions we are creating inconsistencies.

Sam Jones (Clerk): The Scotland Act 1998 does not prescribe either form of wording. It is quite broad. We could consider other models if the committee wants.

Mr Macintosh: I do not want to hold things up. I hate to bring up the House of Commons as an example, but what does it have?

Sam Jones: I would have to go back and check that.

The Convener: I have a question for the clerk. If we opt for the catch-all provision, which would prohibit members from doing anything in their capacity as MSPs, what would the situation be if a newspaper paid someone to write because they were an MSP? Would such practice be caught by the provision?

Mr Macintosh: What would happen if an MSP wrote an article in favour of hunting with dogs and were paid for doing so—not that I ever have been?

Sam Jones: That would be a matter for the draftsmen. I imagine that the order would include a form of words that referred to work that someone had done in their capacity as an MSP in the course of their parliamentary duties. The term "parliamentary duties" is broader than "parliamentary proceedings". It would include engagement with ministers but would exclude writing a newspaper column, for example.

The Convener: Are we saying that we want an all-inclusive provision that would catch a member who writes as a member rather than as a journalist?

Susan Deacon: I favour taking a broader approach. The key issue is the causal link between money and action. We need to cover situations in which money changes hands in order that someone should promote a particular cause. We are concerned not about situations in which a newspaper pays an MSP to write an article about fox hunting, but about situations in which a fox-hunting group pays an MSP to do so. I do not know whether that distinction can be captured in drafting. I am happy to defer to the expertise of our legal adviser on that issue.

The Convener: Our legal adviser is keeping quiet.

Mr Macintosh: Do we need to resolve the matter today?

Sam Jones: We need to clarify the issue for drafting instructions, which are on-going. The committee can return to it at a later date.

Mr Macintosh: So if we fail to reach a conclusion today, that will not scupper next week's debate.

The Convener: No. Next week we will seek the Parliament's permission to produce a committee bill to change the members' interests order. We have plenty of time to resolve the matter. We merely wanted members to give us a steer.

Lord James Douglas-Hamilton: Over the years, part-time journalism has been regarded as legitimate. I remember a Westminster MP being forced to resign because he wrote a letter in which he said that he had not been paid enough for speaking up for certain interests in committee.

That was considered totally unacceptable.

Meeting closed at 10:22.

The Convener: Quite. Members have given us a firm enough steer for now.

Thank you for your attendance. I remind members that next week the Parliament will debate our motion for a committee bill. The more members who speak in that debate, the better.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 8 October 2002

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers