

STANDARDS COMMITTEE

Wednesday 9 October 2002
(*Morning*)

Session 1

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STANDARDS COMMITTEE

14th 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

Karen Gillon (Clydesdale) (Lab)

Alex Johnstone (North-East Scotland) (Con)

Michael Russell (South of Scotland) (SNP)

*attended

WITNESSES

Paul Grice (Scottish Parliament and Business Exchange)

Anne Mearns (Scottish Parliament and Business Exchange)

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

The Hub

Scottish Parliament Standards Committee

Wednesday 9 October 2002

(Morning)

[THE CONVENER *opened the meeting at 10:06*]

The Convener (Mr Mike Rumbles): Good morning, everyone, and welcome to the Standards Committee's 14th meeting this year. I remind everyone to ensure that their mobile phones are switched off, as they interfere with the sound for the official report. I extend a particularly warm welcome to Paul Grice and Anne Mearns, who join us for agenda item 2.

Item in Private

The Convener: Our first task is to decide how to consider agenda item 3, which is consideration of a report from the standards adviser on a complaint against a member. Members will recall that we proposed that under our four-stage investigative procedure, to which the Parliament agreed, the initial consideration of a report from the adviser or the standards commissioner should take place in private. Are members content to take that item in private?

Members *indicated agreement.*

Scottish Parliament and Business Exchange

The Convener: At its meeting on 11 September, the committee agreed that it would be useful to explore the operation of the Scottish Parliament and Business Exchange with Paul Grice, who is its convener. We are joined by Paul Grice and by Anne Mearns, who is the exchange's director. I welcome you both to the Standards Committee. I understand that Paul Grice will give an introduction.

Paul Grice (Scottish Parliament and Business Exchange): I thank the convener for the invitation to give evidence to the committee. I will make a few opening remarks, but I regard myself as being here to answer questions. However, if I give a little bit of context, that may help the committee. I will give evidence as the chair of the exchange's board, but I am conscious that I wear two hats. I am happy to answer questions with either of those hats on, but I am here primarily to represent the exchange's board and to answer questions on its behalf.

The board is composed jointly of MSPs and business representatives. It consists of five MSPs—Elaine Thomson, Brian Adam, David Davidson, Keith Raffan and Lewis Macdonald, who represents the Executive—and representatives of several major companies, the Scottish Council for Development and Industry and the Scottish Trades Union Congress. The board is broadly based and reflects the exchange's objectives.

The exchange is an educational charity. Its core purpose is to promote mutual understanding between MSPs and the business community in Scotland. We define "business community" broadly. It certainly includes the not-for-profit sector. In working towards its objective of mutual understanding, the exchange is inclusive, non-lobbying and non-partisan. It aims to be transparent and open. The exchange's board agreed those principles at the outset. Everyone in the exchange—be they MSP or outside organisation—is committed to and required to abide by those principles.

At the public launch in November last year, the leader or deputy leader of each of the four biggest parties in the Parliament spoke in support of the exchange. We have always had support at that level—at the outset, when the idea for the exchange was being floated, it was canvassed with party leaders, who all supported it. Indeed, the honorary president of the exchange is the Presiding Officer.

The placement programmes that are the core of the exchange's activities match members' interests. Each programme is approved by the exchange's board. Currently, 28 MSPs from across the parties are actively engaged with the exchange in one way or another or have expressed an interest in having a programme developed for them. The organisations that are involved include a range of companies, as well as public bodies such as Scottish Enterprise. In addition to the individual placement programmes, the first industry programme—an energy sector programme—is about to begin. It will potentially bring members from four parties together with a range of key businesses in the energy sector.

The exchange is a relatively new undertaking. That is an important point. We are keen and willing to learn lessons as we go along. In that respect, input from the Standards Committee is particularly welcome. We are already enhancing links between the Parliament and the business community in Scotland. We realise that the exchange's activities must be transparent and we have developed procedures to ensure that. I am happy to discuss those procedures further with the committee.

The costs of United Kingdom and certain European placements—specifically those that involve meetings with the European Union or the European Parliament in Brussels or Strasbourg—are met for members from a specific grant that the Scottish Parliamentary Corporate Body makes to the exchange. The exchange—not the host organisation—meets the cost of other overseas placements. Overseas placements are included in a programme only when they are deemed to be a necessary part of a member's gaining an understanding of the business. As the committee can imagine, the board considers particularly carefully that aspect of any proposed visit.

The costs of running placement programmes, including any benefit in kind that the members participating in them receive, are subject to strict accounting procedures. The exchange will publish details of those costs along with a member's end-of-programme report.

I understand that the Standards Committee clerk has produced guidance in relation to the "Register of Interests of Members of the Scottish Parliament" for MSPs who are participating in the exchange. That guidance sets out members' obligations under the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 in relation to travel costs and other benefits that flow from their participation in the exchange.

That is all that I propose to say at this stage. I am happy to answer any questions.

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

I refer you to the Scottish Parliament and Business Exchange's website—in particular, to the organisation's principles. The first is that the organisation should be

"Non-lobbying, non-partisan, transparent, open".

Who drew up that set of principles and who approved it?

Paul Grice: The exchange's board, being the board of a company, approved the principles, which were debated and considered. The origin of the exchange lay in a working group, which predated the company and was set up once it was clear that there was support for the idea in the Parliament. The process must have taken a year or so. That was the origin of the principles. The company adopted them and they are incorporated into the way in which the organisation works.

Tricia Marwick: When the working group was considering setting up the exchange, did it at any time seek advice from the Standards Committee clerks about whether the business exchange scheme's principles and working practices would comply with the "Code of Conduct for Members of the Scottish Parliament"?

Paul Grice: I was on the working group. One of my responsibilities as clerk of the Parliament was to ensure such compliance. However, there was no specific consultation at that stage. The working group was considering more how the exchange would work and how we would bring business and MSPs together.

There has been considerable contact between the director of the exchange and the clerk of the Standards Committee as we have started to run the programmes. Indeed, we have been very much guided by the committee clerks as to how the programmes should be run. We will continue to discuss that with them as the programmes evolve. Since we have got into the operational end of the business, there has been quite close contact. In the early days, the discussion was slightly more philosophical.

10:15

Tricia Marwick: One of the first principles of the exchange is that it should be

"Non-lobbying, non-partisan, transparent, open".

Can you define lobbying?

Paul Grice: For the purposes of the exchange, I would say that lobbying is where people are promoting the narrow interests of their company or organisation, as opposed to enabling a member of the Parliament to gain an understanding of a business or sector, which I would not regard as lobbying.

It is important to put on record the fact that the programme is very much led by members. In other words, it is less a matter of a business wanting to tell MSPs things; it is more about members seeking information and setting the agenda. That is what I would regard as the main protection.

All the companies that participate in the exchange, whether they take part in an inward programme or whether they receive members, must give an undertaking not to lobby. So far, no member—and indeed no member of staff—has ever come to me with any suggestion that they have been lobbied. If a member was lobbied, that would be a breach of the terms of the exchange. The scheme is about answering members' questions and helping them to understand the exchange, rather than about pursuing commercial interests.

Tricia Marwick: I would say that your definition of lobbying is very individual. The Standards Committee has deliberated for almost three years on how it would define lobbying. It is clear that the committee's definition of lobbying in its report to the Parliament—which was approved—and the definition of lobbying that you have just expressed are not one and the same thing. The definition of lobbying that was determined by the committee is:

"the provision of advice and/or information to a third party on the workings of the Scottish Parliament or the direct representation of organised interests in return for remuneration with the intention of influencing the actions of MSPs".

Paragraph 33 of the report further defines lobbying. Given that definition of lobbying as determined by a committee of the Parliament, do you think that it might have been better if five of the seven first placements from business had not been representing the lobbying interests of a company?

Paul Grice: I will be honest with you: that is a fair point for consideration. However, I will make a few points in relation to that. First, there is an important point to be made about our telling member organisations about the people whom they should send in. I would not tolerate for a minute a company telling us that they would or would not accept a particular MSP. As the exchange is a partnership, we need to be careful not to tell member organisations whom they should send in. Secondly, all the people coming in were required not to lobby—they signed an undertaking that they would not do so. Thirdly, I have received absolutely no feedback from any member or anyone else—a number of members hosted the people coming in, and my staff were also involved—to say that they were lobbied.

As I said, Tricia Marwick makes a fair point about membership. The judgment taken by the board, after some consideration, was to regard the

first exchange very much as a pilot. The programme is mostly about getting to see the place and understanding how it works. We had never tried it before. We felt that the people who became involved would be suited to such a pilot programme. It is my intention and, I think, that of the board to encourage companies, as and when we run another inward programme—which I think is probably a little way off now—to put forward people who are closer to their core businesses. I think that our approach was, on balance, the right one for a pilot and a first programme, given the other safeguards to which I have referred.

Tricia Marwick: The definition of lobbying that I outlined has the approval of the committee and of the Parliament and refers to

"the provision of advice and/or information to a third party on the workings of the Scottish Parliament".

On that basis, was not involving commercial lobbying organisations that will gather information for third parties for remuneration a big mistake by the business exchange that might not have been made had you sought the committee's advice earlier?

Paul Grice: I do not think that the board would accept that view. Obviously, I will go away and study hard and carefully what you have said. It is important to draw a distinction between people whose jobs in companies concern communications or public relations and people who work for commercial lobbying organisations.

A big mistake was not made. The programme was a productive learning experience. The reaction that I have had from the members of Parliament who were involved and those who visited was positive. We learned much. The primary purpose was to see whether a programme could be undertaken. I do not agree that the programme was a mistake, but I will examine carefully the committee's considerations. If there are any lessons to learn from doing that, we will learn them.

The Convener: I will come back to Tricia Marwick. Other members want to ask questions.

The perception is—it is certainly my perception—that companies that are involved in the programme will undertake a business exchange. In other words, an MSP would go to a company and a company would take someone out of their role and let them shadow an MSP in the Parliament. I was at a private meeting that one such individual attended. I have no idea whether that person was a lobbyist, but my perception was that the person from the other organisation was just doing a job and learning from shadowing an MSP. I am surprised that three quarters of the people who were involved in the programme were lobbyists in one form or another. You say that it

would be wrong for you to tell a company whom to send, but you could tell a company whom not to send.

Paul Grice: That is a difficult matter. The exchange is a partnership between business and MSPs. One needs to be as careful in telling them what to do as they would be in telling us what to do. The programme was in the vein of a pilot, to see whether we could work it. All the people concerned—whatever their roles in their organisations—were bona fide people who were employed by their organisations and were required to give and abide by undertakings. I have received no complaint or comment to suggest that they did not. However, I take the committee's point. The programme was part of a learning experience. When we run another—I suspect that that could be as much as a year away, given the intervening election—we will reflect carefully on that. A pilot need not be run more than once.

Kay Ullrich (West of Scotland) (SNP): I have concerns about the process of matching MSPs to companies. I am concerned that a member of the Health and Community Care Committee should have been matched with Pfizer, which is a pharmaceutical company. As a former member of that committee, I can say that the pharmaceutical companies and the committee interact a great deal. Most of that is good, because we learn much from those companies. However, on reflection, do you think that the match was a mistake?

Paul Grice: No. I accept that a real issue is raised. The matter comes down to a judgment by the members concerned, who are best placed to judge their own needs and what will help them to do their job better. My personal agenda, if I have one, is to help members to have better access to the information and experience that they need to do their job. That is my starting point. If a member feels that it would help them in their job as a member to have a deeper understanding of a sector or a business, that is right.

You have hit on a conundrum that members must weigh up. There is no doubt that a deep experience of a company such as Pfizer or a bank puts members in a more authoritative position when they work on a related inquiry or piece of legislation. On the other hand, you are right that members must weigh the benefit against whether the experience will put them in a difficult position when speaking against the company.

The agenda of each programme is driven by the member. In the Pfizer case, the programme was driven by the member saying, "This is what I want to know," rather than by the company saying, "We will tell you what you want to hear." That is an important point. Ultimately, the matter comes down to the judgment of the member concerned. I have spoken to the member who was involved in

the Pfizer case and she feels, on reflection, that she gained a useful insight into a major company.

Kay Ullrich: You put the onus on the member, but what structure is in place to protect the member and the Parliament from lobbying? What discussions take place with the member and the company if you think that there might be a conflict of interest or if the situation is perceived to involve lobbying?

Paul Grice: The programmes take months to put together. There is a lot of discussion about the precise nature of a programme. As a safeguard, the company must give an undertaking, of which the member is well aware, that it will not lobby the member. We ensure that the member is aware of the issues and that the company gives an undertaking. The member sets the agenda and says what they want to find out.

Beyond that, the issue is about taking a sensible and careful look and trying to come to the right decision. There are safeguards and there is plenty of information on the basis of which members will decide whether to undertake a programme and what type of programme they want to undertake.

Kay Ullrich: I am concerned that, in the Pfizer case, the member was left swinging in the wind in the face of adverse publicity. She was not at fault, although perhaps she was naive. I am concerned about that. A fairly lengthy trip to the United States was involved, which was obviously going to receive press attention. What counselling and advice was given to the member?

Paul Grice: The trip to the United States was for three days. I do not know whether that fits the definition of lengthy. I say categorically that in my judgment the member did nothing wrong. I do not accept that she was left swinging in the wind. There was adverse media coverage, but we have all suffered that on a number of occasions. Such coverage does not necessarily mean that an issue of substance is involved. I was concerned for the member because she acted—and continues to act—in good faith. The board thought long and hard about the matter, but its view was that if any component, including the overseas part, was felt to be fundamental to the understanding of the business, we should not be cowed into not including that component.

I return to my general point that the business exchange is a new organisation that is feeling its way. The board will continue, where appropriate, to approve elements of a programme that it feels will help the member. The point of the programmes is to allow the member to gain a deeper understanding of a business than they might gain from a half-day seminar. The member will feel that they can speak with authority—in Parliament or elsewhere—and that they

understand the issues before they make decisions on legislation or a report. That is what the scheme is all about. In the Pfizer case, the board felt that it was appropriate that the member should gain an understanding of the headquarters of the operation. The visit was legitimate and the member was right to undertake it.

Kay Ullrich: All parliamentary institutions must be accountable to the Parliament. To whom is the business exchange accountable?

Paul Grice: The business exchange is a separate company that is limited by guarantee. There are a number of strands of accountability. The exchange is accountable to the SPCB for any resources that it provides and it is required to report regularly to the SPCB. The exchange is also accountable through the members and the openness for which we aim. No information is hidden, so there is a wider accountability both to members and to the public. As I hope I am demonstrating today, I regard myself as accountable for everything that I do. There are a number of ways in which the exchange can be held to account. The structure of the board—with five members of Parliament on it, as well as business interests—holds the activities of the directors and others carefully to account. There are several structures in place to ensure that it is accountable.

10:30

Kay Ullrich: Cross-party groups come under the remit of the Standards Committee. Who—which committee or organisation—looks after the scrutinising of the whole programme?

Paul Grice: Obviously, the scheme is not a cross-party group.

Kay Ullrich: I am using cross-party groups as an example. The Standards Committee is responsible for the scrutiny and monitoring of those.

Paul Grice: Sure, but the Scottish Parliament and Business Exchange is a company that has been set up independently. I do not know whether it is appropriate for a company to fall within the remit of a specific committee.

I reiterate the points that I have made. The corporate body holds the exchange to account for any expenditure that it approves. As I hope I am demonstrating today, I am always willing to come before this or any other committee that has an interest in the matter. There is a direct line of accountability. Putting a separate company under the remit of a specific committee would be highly unusual and I am not sure that it would be entirely appropriate in the circumstances, given the other lines of accountability that I have described.

Kay Ullrich: You are saying that you have come before the committee today but, with due respect, the horse has already bolted. Where is the continuing monitoring and scrutiny coming from? Who is looking out for everyone's interests in this matter—especially the interests of the Parliament?

Paul Grice: The board performs that function. Half its members are MSPs, and I chair it for the time being. I do not accept that we are in any sense closing the door after the horse has bolted. The process is on-going and we are early in the life of the exchange. Under the current system, the exchange makes clear, public and accessible what it is doing. That is an underlying principle. The role of the corporate body and my role today are part of that. That is a better and more appropriate form of accountability than, for example, placing the scrutiny role within the remit of a committee. However, I would be responsive to any proposals that the Standards Committee might want to introduce if it felt that we could improve on the current system.

The Convener: I appeal to members to keep their questions short, sharp and relevant. I have a long list of members who want to speak. I also invite Anne Mearns to speak if she wants to. Do not feel that you have to be brought into the debate, Anne. If you want to add something to what Paul Grice has said, or if members have questions for you, feel free to contribute.

It is clear that the remit of the Standards Committee is the conduct of MSPs. We are, therefore, focusing on the conduct of MSPs, not on the activities of a particular company. Our interest is the conduct of the MSPs and the influence that may be exerted over their activities. In this case, we are concerned about lobbying. I think that that is coming across. The remit of the committee stretches to the conduct of MSPs in the performance of their parliamentary duties.

Paul Martin (Glasgow Springburn) (Lab): Is there a requirement for a business exchange? If a company wrote to me as a constituency MSP suggesting that I take part in a business exchange and setting out the principles of that exchange, would there be any legal difficulties in processing an exchange in that manner rather than the company using a subscription of £6,000?

Paul Grice: There would be no difficulty whatever with that. The exchange is not exclusive; rather, it is intended to be part of the general promotion of understanding between MSPs and business. As we have discovered, an enormous amount of work is involved in pulling together industry programmes or placements—it is surprisingly difficult. Part of the work involves supporting members in doing that. Putting together a proper programme is time consuming, and the business exchange is meant to be a helping hand in that respect.

Paul Martin mentioned the figure of £6,000. It is worth clarifying that subscriptions to the exchange depend on company turnover and are as low as £150 for companies that have a turnover of less than £1 million. A company would have to be in the same league as the Royal Bank of Scotland for it to pay £6,000.

With my other hat on, if a member asked for help to find out something, we would provide that. The business exchange offers members another option and the interest that members have shown in the exchange so far shows that there is a demand for it. Despite occasional comments, members are genuinely interested in understanding business issues. The business exchange has a role in that process, but it is by no means its only role.

Paul Martin: So logistically and technically, members could carry out exchanges without the business exchange being in place.

Paul Grice: If members want to do a placement—many do—they can do that without the business exchange, but if they feel that the business exchange can help, that is what it is for. I return to the point that when members approach the business exchange, they set the agenda. If a member thinks that he or she can arrange a placement more easily off their own bat—as some members have done—that is fine, but if my staff and I can help, we will.

Paul Martin: You mentioned your belief that the exchange has been a success because members have learned from businesses and because businesses have learned from members. Do you have examples? Is there an example of a member saying that he or she has gained a better understanding of a company and that the company has gained a better understanding of the Scottish Parliament?

Paul Grice: It is early days. Anne Mearns has more day-to-day contact with members who are in the middle of programmes. I am not sure whether anyone has completed a programme yet. I will be better able to answer the question when some programmes have been completed. As part of a programme, members are required to publish a report, which will be made public along with the details of expenses or hospitality received. That is part of the policy of openness. The report should be based on lessons that have been learned. Perhaps Anne Mearns can provide some interim feedback from members who are undertaking programmes.

Anne Mearns (Scottish Parliament and Business Exchange): I could give many examples of MSPs who have told me that they have contributed to debates—or have it in mind to contribute to a debate—in which they might not

have considered participating before doing the exchange programme.

Paul Martin: Perhaps you are not allowed to refer to particular members, but are there any specific examples in which the exchange has been a success?

Anne Mearns: I think that Michael Matheson would not be unhappy if I mentioned his name. He recently had an enthusiastic meeting with me about a programme that was designed around his learning outcomes for the tourist industry. Since he has become involved in the exchange, he has found aspects that he wants to explore further. We have expanded his programme to cover about a year. Michael felt that he did not know anything about the industry and he wanted to take the chance to learn about it. He is enthusiastic about the depth of understanding that he gained from his brief placements with VisitScotland and Scottish Enterprise. He will also spend time at BAA's Scottish airports.

Mr Kenneth Macintosh (Eastwood) (Lab): We should bear it in mind that the business exchange carries out a useful function. It is important that we talk to business. In today's discussion we should remember that there have been no allegations or hints of improper or inappropriate behaviour. I appreciate that, as Paul Grice said, we are learning lessons.

I thank Margaret Jamieson for bringing the issue to our attention. Her case was the reason for our initial concern. Has the issue of MSPs being required to sign confidentiality agreements been resolved satisfactorily?

Paul Grice: I believe that it has. We learned a lesson from Margaret Jamieson's case. I repeat that Margaret Jamieson acted in good faith. On the company involved, the agreement is standard in situations in which people have access to its extremely sensitive and patentable information. The company's wish had to be respected.

Margaret Jamieson was in the lead on coming to a more satisfactory arrangement whereby the confidentiality agreement is between the business exchange and the company. We had significant input from the clerk and the convener in getting that right.

We have also become much better at examining carefully the nature of a programme to determine whether a confidentiality agreement would be appropriate. If one is felt to be appropriate, we examine the programme and ask whether it is absolutely necessary in order to meet the member's desired learning outcomes, as Anne Mearns called them. In other words, does the member need to do everything in the programme? If a member is to have access to the most sensitive data that a company holds, does he or

she need to know it? If so, we have a standard agreement that complies with the code of conduct for members. Anne Mearns might correct me, but only one has been used so far. We would contemplate such action only if the member and the organisation felt that it would be necessary for the member to get access to such information.

We have learned lessons from Margaret Jamieson's case. We are on a much more satisfactory footing and, critically, that footing is consistent with the code of conduct. The other arrangement was merely potentially inconsistent. I am not saying that it was actually inconsistent with the code, but that potential existed. We addressed it before anything came of it.

Mr Macintosh: I am aware that you have been in correspondence with the clerks and the convener about a couple of matters. I would like the evolving relationship to continue. As part of the committee's investigation into lobbying, it is drawing up enhanced guidance for MSPs, which I think all MSPs will welcome. However, in relation to the business exchange, there might be a case for drawing up guidance for MSPs who go on exchanges, having learned from experience so far. Are you considering that? If not, would you consider it?

Paul Grice: We are considering it, but I am happy to undertake to double-check the matter. We have guidance, but I am happy to reconsider it in the light of what the committee produces and to make absolutely sure that it is consistent with the committee's work. We ensure that members get all relevant information, including guidance; that is an automatic process. I undertake to consider the matter again and to ensure that we have not missed a trick.

The Convener: I confirm to members that any confidentiality agreement that is drawn up between members on the business exchange and companies is consistent with the code of conduct for members. No confidentiality agreement can override an MSP's public duty. An MSP would automatically have access to advice from the clerks to the Standards Committee in any case.

Lord James Douglas-Hamilton (Lothians) (Con): I will ask about MSP placements. Paul Grice has spoken already about the principles by which the business exchange is guided and about the possibility of future guidance. How are the placements developed and agreed? Do you have any policies and guidelines on the scale and nature of placements? If you do not, might they be put in place once the pilot has been reviewed?

Paul Grice: I will give an initial answer and then invite Anne Mearns to come in. From my—and the board's—point of view, placements are initiated by what members want. In other words, we canvass

members and ask what they would like to know. That is an important point. Thereafter, the exchange seeks to match what MSPs want with member companies.

The exchange is new and we hope very much that its membership will expand. Although sectoral coverage is fairly good, one of our aspirations must be to attract more small businesses over time. The exchange is a matching agency, in a sense. I will let Anne Mearns say more about how specific programmes are developed. We have guidelines and different types of programmes and Anne Mearns might want to say a bit more about that.

Lord James Douglas-Hamilton: Have you had contact with the Industry and Parliament Trust in Westminster, which has operated for many years in co-operation with major companies?

Paul Grice: We have had a lot of contact with that trust, which, as you say, has been operating for about 25 years. It is fair to say that the original model that we had in mind was the Industry and Parliament Trust. I am sure that we have produced a system that is better and more appropriate for Scotland and the Scottish Parliament—it is more flexible and inclusive. We have had a lot of contact with the Westminster trust because we were keen to learn lessons from its experience of issues that we were likely to come across.

Lord James Douglas-Hamilton: Was there a particular reason why you decided to create a company rather than a trust?

Paul Grice: Although the Industry and Parliament Trust calls itself a trust, I think that the business exchange was set up on exactly the same legal basis.

10:45

Lord James Douglas-Hamilton: I think that you said in your opening remarks that the party leaders, or their deputies, had expressed their public support for the business exchange.

Paul Grice: Yes.

Lord James Douglas-Hamilton: I think that you also said that the purpose of the business exchange was entirely educational and that lobbying is not allowed. You also said that, to the best of your knowledge, there has been no transgression from that position.

Paul Grice: Yes. I agree with all that.

Lord James Douglas-Hamilton: Thank you.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): There has been much talk this morning about learning lessons—rightly so. I hope that we continue to deliberate the lessons

that have to be learned. Based on your experience to date, if you were to design a business exchange programme from scratch, what would you do differently?

Paul Grice: Is the question about the outward or inward programmes?

Susan Deacon: It is about all aspects of the scheme as it stands.

Paul Grice: We have learned that, when we are constructing a programme for a member, we should look long and hard at it and that we need to play devil's advocate with ourselves. The programme is not a course. As members probably know better than I do, one cannot always anticipate what the media will run with. Nonetheless, we need to look at the construction of the outward programme. We are now implementing closer links with the Standards Committee clerks and we will work with them from day one—indeed, from day zero.

In terms of the inward programme, I accept the committee's points. The programme was useful as a pilot, but I have learned that we should encourage businesses who want to take part in the exchange to let the Parliament have people who are closer to the companies' core business. I think that it was the convener who suggested that.

When we run the next programme, which might be as long as a year away, we will be able to do that with more confidence because of the practical lessons that we have learned from the first programme. That time scale gives us plenty of time. Those are the principal lessons that we have learned in what has been a little less than a year of the first programme's operation. We have not been going for long, but we have learned key lessons.

I must say that I am encouraged by the support that members have given to the programme and, indeed, by the support that we have received from business. That might not be a lesson learned, but it is an encouraging confirmation that members want to understand the issues that face the country and that businesses want to engage constructively with members of the Scottish Parliament.

Susan Deacon: One academic, who was interviewed in the media this morning, described the exchange as one that offered "privileged access to MSPs". That phrase is pejorative. What are your comments on that description?

Paul Grice: I reject that description entirely. As Susan Deacon knows, MSPs set out to be accessible and in my experience, they are remarkably successful at that. MSPs put themselves in the spotlight, whether in their constituencies, in the chamber or in committees of

the Parliament. The business exchange is one part of bringing that together. It offers not privileged access, but an opportunity for members to gain a deeper understanding of business.

Members often tell me that they have an enormously busy life in which they can take only half an hour out here and there. They must cover many bases in a short time. The business exchange offers members a constrained type of access because of the undertakings that member companies must give. In other situations, if a company representative walks up to a member in the street or comes into a member's surgery, no undertaking is made that they will not lobby the member, but the business exchange has rules. They are designed to safeguard members and to give them more confidence that they can have a candid and constructive exchange.

Access through the programme could not be called "privileged" in any sense of the word. Paul Martin made a fair comment in that regard, but the exchange is just one part of the programme. Members who want to seek out such an exchange or companies that want to approach an MSP can do so on their own. I know that all that happens; indeed, it probably forms the greatest part of the contact that an MSP has.

I repeat that the business exchange is one part of bringing business and the Parliament together. The rules of the exchange and its links to the Standards Committee provide safeguards that do not always exist in such situations. I hope that that safeguard is to the benefit of members, as are the ground rules, which should help both sides. That said, I accept that we have to keep the ground rules under review at all times.

Susan Deacon: You mentioned several times that no MSP has complained to you that they have been lobbied. How can MSPs judge whether they have been lobbied? Is it true that the most effective lobbyists are those who lobby most subtly?

Paul Grice: Perhaps you are right—I defer to Susan Deacon and the committee, as you will have considered such questions more than I have. I am conscious of and welcome the fact that MSPs raise matters with me at any time—that is important. I hope that we run the Parliament in such a way that members never feel inhibited from raising matters. I trust members' judgment and I am confident that, if a member thought that anything inappropriate had happened, whether or not it related to lobbying, they would come to me and say that they were unhappy with it. That might happen in respect of the business exchange or anything else.

My experience is that members are quick to seize on such things and are quick to tell me or

one of their colleagues on the exchange board about them. However, I accept Susan Deacon's point. If lobbying were so subtle, would any of us know that it was happening? In general, I think that members are well attuned to lobbying and that they would have no hesitation in drawing it to my attention or to that of a colleague who is a board member. Certainly, no such problems have been brought to my attention, although it is obvious that we must be ever vigilant and keep such matters under close attention.

To pick up a point that was made earlier, I am happy to reconsider the guidance that we give to members. We should be positive about encouraging members to draw to our attention anything about which they are unsure. If necessary, we would feed such information to the Standards Committee clerks or the board of the exchange.

Susan Deacon: I have a couple of brief final questions. Conflicts of interest have been mentioned and there is an issue surrounding actual and perceived conflicts of interest. What has been done and what more could be done to ensure that neither actual nor perceived conflicts of interest arise either for a participating company or an MSP?

Paul Grice: Tackling actuality is a good deal easier than tackling people's perceptions, which is enormously difficult. I return to the point of exchanges: they are about education and understanding. Forgive me if this sounds like a cop-out, because it is not meant to be, but a member with the support of the exchange, the Standards Committee clerks and others if necessary, must make a judgment. I accept that that is problematical, but the issue goes wider than the exchange. Members have a tremendous responsibility on their shoulders and, in my experience, need to spend much of their lives trying to acquire information, knowledge and understanding and they need to get close to things to do so. If that makes it hard for them to express a view, they must be careful and thoughtful. Members must be absolutely sure that they will get out of the exchange something worth while that will potentially outweigh any drawbacks.

Public hearings such as this are an extremely important part of the reassurance process. We must show that there is nothing to hide. The fact that the exchange will publish all information about what a member has done, what was spent and what was achieved is part of showing that nothing underhand has been done and that the member has tried genuinely to improve his or her understanding.

On what more we can do, we need to listen to members when they return from exchange programmes and we need to learn from their

experiences. No member has yet completed a programme, but tremendous lessons will be learned from the three members who are currently on substantial programmes. The board is keen to talk to those members and find out whether they want to contribute anything to the evolution of the business exchange. Similarly, if the committee wanted to make recommendations, I am certain that the board would consider them.

Susan Deacon: Finally, given what you helpfully explained to us this morning about the structure of the exchange and its board, its status as a limited company and so on, who will decide what the future of the exchange will be? In whose power is it to act on the concerns that have been raised here and elsewhere about the operation of the exchange to date?

Paul Grice: The board itself legally has that responsibility, but I stress again that half of its members are MSPs. I convene the board, I am a servant of the Parliament and I have to report to the corporate body. While the board itself has the legal responsibility to do what you describe—that is an important point—it is obviously open to influence from committees such as this one and from the corporate body, which holds the purse strings in some respects and therefore has a direct influence. It is ultimately the board's decision, and it is my view that that is right and proper, but given its structure, the board is open to influence. In the same way, if the business community had issues that it wanted to bring to bear, I would expect the board to listen to it as well.

Whatever the outcome of this meeting today, at the next board meeting it will be a top agenda item. We will want to review and listen carefully to all the points and concerns that have been raised today. I will reflect with my board colleagues to see if there are any lessons that we can learn.

The Convener: Before I come back to Tricia Marwick, I would like to focus on a couple of questions that pursue the line that Susan Deacon adopted. I was interested to hear your comments on Susan's questions, because you seemed to concentrate on the fact that the board has concentrated itself on the activities of MSPs, which interests us. You concentrated on the benefits that MSPs will get from the business exchange. You also said that decisions are best left to MSPs' judgment, but I put it to you that the board has a duty—a duty—to ensure that when MSPs, for example Margaret Jamieson and other MSPs, engage in the business exchange they are safe from exposure.

Your anecdotal evidence is that you have had no complaints from MSPs that they have been lobbied, but I put it to you that that is not good enough. I would like to know specifically what safeguards are in place—and I would like to hear

from Anne Mearns on this point as well—to ensure that the activities of the exchange adhere to the principle of non-lobbying. What safeguards does the exchange have now, rather than the anecdotal evidence that you are presenting?

Paul Grice: I will let Anne Mearns provide the detail.

Anne Mearns: I will talk about the procedural part of it and take, for example, a programme that is designed with an MSP's interests as the starting point. I meet the MSP, find out what their interests are and draw up what we call learning outcomes and their objectives for the programme. I then seek a company or companies that would be able to deliver those outcomes. The company then gives me an outline programme. If the company includes things in the programme or emphasises a direction that does not match the MSP's interests, I go back to the company and ask how that particular part fits with the MSP's objectives. That has happened. The company then comes back and says, "Okay, this is what we are doing that is different." There is a process of negotiation. When I feel that the draft programme matches the MSP's interests, it is given to the MSP, and then we can fine tune and talk about it.

The Convener: But do you not look at who the companies will send to trail round? I used the example earlier that I was at a private meeting and I assumed that the person who came to the meeting had been approved by the business exchange. You are telling me today that that is not the case.

Anne Mearns: I was giving an answer in relation to an MSP going in to a company. In the case of the inward programme, the CVs of all the people who were interested in taking part in the programme were made available to their host MSPs.

Paul Grice: The board approved the people coming in—I can reassure the committee on that point. Each one of them had to give an undertaking not to lobby. No one has come to me and said that someone breached the terms of that undertaking.

The Convener: I wrote to you to outline my concerns on the issue on 29 August last year. Your reply was that the first principle of the exchange is that it is non-lobbying. How do you account for the fact that six of the eight people involved were from lobbying organisations?

Paul Grice: I do not think that that is true.

The Convener: Or, I should have said, involved in lobbying.

Paul Grice: That is an important distinction. Those are not lobbying organisations.

The Convener: I agree. The people involved are employed as lobbyists.

11:00

Paul Grice: I agree that a lot of them work on the communications side of their companies. It is not right to judge a person by their title. It is more about how they act when they come in on the exchange.

Another important factor is whether the exchange should tell businesses who they should send in, any more than a company should tell me which MSP it wants. I do not think that either is acceptable. It is much more about how the person behaves. The board considered the matter carefully and felt that, as Anne Mearns said, it was the right thing to do as a pilot. We made sure that the host MSPs were clear about the CVs of the people involved. The MSPs knew exactly whom they were dealing with. We put a press notice out saying who the people were. In no sense was anything hidden. That openness is another safeguard.

Tricia Marwick: Margaret Jamieson wrote to the committee in June. She expressed concern about the operation of the business exchange scheme in relation to her experience, which has already been mentioned. I quote from her letter:

"I have now discussed this matter with the relevant Parliamentary Authorities and I am concerned that the procedure put in place for the operation of the Exchange, and which I have followed to the letter, may in fact not be robust enough to meet this Parliament's commitment to openness and transparency."

She continues:

"I am very concerned that members are being put in a position where they have been encouraged by the Parliament to participate in the Exchange but may not have been provided with a framework for their activities which is robust enough to withstand scrutiny."

So, a member who was on a placement told the committee in June that she had concerns about the robustness of the operation of the business exchange. I take the point that you have learned lessons from that, but as I said at the previous meeting, it is a bit like closing the stable door after the horse has bolted. Surely our first priority, and Paul Grice's first priority, must be to protect the reputation of the Parliament. Given Margaret Jamieson's comments, do you think that the first responsibility of the business exchange should be not to the board of the business exchange, but to the reputation of the Parliament?

Paul Grice: I do not agree that it was a matter of closing the stable door after the horse had bolted. The letter was written ahead of Margaret Jamieson undertaking the programme. She was specifically talking about a confidentiality

agreement, which was a potential issue. If you want to use that analogy, we closed the stable door before the horse could bolt.

Reputation is extremely important to the Parliament. I am very alive to that. We live in an environment in which the media run with stories and sometimes blow things out of proportion. I think that Margaret Jamieson was a victim of that.

To pick up on the convener's point, the board regards itself as having a duty of care to a member, although that would not cut across a member's responsibility to make their own decisions. That is right for a member of Parliament. Margaret Jamieson had concerns and they were addressed. She was very unfairly treated by some parts of the media. We did everything that we could to support her through that. I think that she recognises that. As I say, we learned a lesson.

Margaret Jamieson was commenting on a narrow issue in her letter—the operation of confidentiality agreements. I think that we have addressed that potential issue satisfactorily. Nobody regrets more than I do, with the possible exception of Margaret, the fact that she was treated so badly. I have said here, on the record, that in my judgment she did nothing wrong and always acted in good faith.

Tricia Marwick: At the outset we discussed your understanding of lobbying, which is at odds with the Standards Committee's interpretation of lobbying. The committee defined lobbying partly as

"the provision of advice and/or information to a third party on the workings of the Scottish Parliament".

In your press release of 29 April concerning the parliamentary programme, you stated that the exchange

"will enable our business representatives to attend parliamentary meetings"

and to

"learn about how parliament functions".

Is that lobbying?

Paul Grice: It is exactly what I said it is. It is gaining an understanding of the Parliament. If a member of the public attends a meeting of this committee or of the Parliament, they are gaining an understanding of how the Parliament operates. We could debate what lobbying is and, at the end of the day, I defer to the committee on that. However, the function of the business exchange is exactly what I said it is—to provide people with an understanding of how the Parliament works. We have suffered because often people do not understand what members do, the enormous pressures on members and the value that the

Parliament adds. The exchange is seeking to provide an understanding of that work.

The last thing that I want to do is to fall foul of anyone over lobbying. The exchange is not intended as a vehicle for lobbying—quite the opposite. It sets out to protect members. Promoting understanding of the Parliament is a very important function. We should encourage businesses to learn about the Parliament, so that they do not comment from ignorance on what the institution of Parliament and members do. The statement that Tricia Marwick cites was intended to make that clear. I stand by that.

Tricia Marwick: The definition of lobbying is not a matter of debate between you and me. It has already been determined by the Standards Committee and approved by the Parliament. The definition of lobbying is the one that I set out, not the one that you have set out. The work of commercial lobbying organisations is to gather information about the workings of the Parliament, perhaps to sell it on to a third party. Do you think that bringing in someone from Saltire Public Affairs, which is part of Shepherd and Wedderburn, to shadow two MSPs allowed them to obtain information about how the Parliament works that they could sell on to a third party?

Paul Grice: Tricia Marwick makes an important point. I do not have the definition of lobbying in front of me, but it includes the selling on of information. All those involved in the exchange, with the exception of one person—I will deal with her case in a moment—were members of companies. There is no suggestion that they intended to sell on information or have done so. I hope that that reassures members as far as the definition of lobbying is concerned. I agree that the definition of lobbying is not a matter for debate between us—the committee sets that definition. As I have already indicated, I will look long and hard at the matter to ensure that there is no problem.

The case of the person from Shepherd and Wedderburn was difficult. Shepherd and Wedderburn is a respectable and reputable company that is a member of the exchange. It sent the person to whom Tricia Marwick refers as a representative of its public affairs division. We seek always to learn lessons from experience. Like everyone else involved in the programme, the person from Shepherd and Wedderburn signed the undertaking. To the best of my knowledge, she abided by its terms. I have no evidence to suggest that she has in any sense sold on information.

The inward programme was the sort of programme that we run for many people, including visitors from overseas Parliaments. It was mainly about observing members in action. Little of it took place behind the scenes. What took place behind the scenes was designed to enable participants to

see what a day in the life of a member is like and to understand the pressures that they face. Much of the rest of the experience was probably no more than people could get through sitting in the public gallery or reading material on the Parliament's website. I am not sure what they could acquire that they could sell on—to use Tricia Marwick's term—even if they wanted to do that.

I accept that the case that Tricia Marwick has highlighted was an awkward one, and I can only say that we learn lessons. As far as I know, the person concerned behaved quite properly at all times and, to my knowledge, she has not done anything improper since with what she learned.

Tricia Marwick: I simply comment that while lessons are being learned with regard to the business exchange, the reputation of the Parliament, not just that of the business exchange, is being undermined. It is the duty of the Standards Committee and of MSPs to ensure that the Parliament's reputation is not undermined. I fully accept that you believe that there are lessons to be learned. However, mistakes have been made. How can the Standards Committee guarantee that similar mistakes will not happen in the future?

Paul Grice: I took that to be a comment, but if the question is addressed to me, I will say that I have tried to answer all the points put to me and, although of course I acknowledge the views that Tricia Marwick holds, I do not think that—

The Convener: If I may intervene at this point, I am conscious that we have been going at this for well over an hour. However, this is a very important issue and I do not want to prevent members from asking questions, if Paul Grice and Anne Mearns are willing to continue a little longer. Is that all right?

Paul Grice: We will continue for as long as you want.

Lord James Douglas-Hamilton: You have already been asked about guidance. It is important to ask whether agreements were put forward to MSPs for them to sign. If there is a proposed confidentiality agreement, it is particularly important that guidance be given by the Parliament, with the assistance of the Standards Committee clerks. The principle is that an MSP should not be beholden to anybody—by which I do not just mean outside organisations. By its nature, any confidentiality agreement would have to be extremely limited before I would regard it as acceptable.

Paul Grice: I agree. That is very much viewed as the starting point. I offer Lord James complete assurance on that point.

Susan Deacon: Let me ask about the financing

of the business exchange. You have talked us through the fee structure. You also said that the corporate body is answerable for any contribution that it makes. What contribution does it make?

Paul Grice: I think that it contributes £18,000 a year. Specifically, that covers travel and other costs associated with members attending events. There is also a modest amount associated with help in kind—to set up the website, for example.

The Convener: We will be pursuing this matter at our next meeting. The committee's remit extends to the conduct of MSPs in their parliamentary duties, including their activities connected with the business exchange. The committee has to decide how to proceed. Do you have any suggestions or views as to how we can take the business exchange programme forward?

Paul Grice: This has been a helpful dialogue, certainly from my point of view. I can think of one possibility that the committee might wish to consider—I hasten to say that I have not had time to consult the board on this, although I am confident that it would agree. I report quarterly to the corporate body and, in order to keep the committee up to speed and to provide a direct line of accountability, I would be more than happy also to report to the committee on behalf of the Scottish Parliament and Business Exchange on where programmes are, on any issues that arise and on how the exchange is developing. That could be done on a quarterly basis or at whatever frequency members judge appropriate. I would always be happy to come and discuss any such report with the committee. It is stating the obvious that I am happy to be summoned or invited before the committee at any time—

The Convener: Invited.

Paul Grice: However difficult an issue may be, and however critical members may be, I am happy to come before the committee and answer members' questions. I could also be proactive by reporting to the committee on what we are up to; the committee would then have the opportunity to take oral evidence on the back of that.

I reassure the committee that we look to the Standards Committee clerks and our own lawyers to guide us on some of the more technical issues, and we will continue to do so. I would be happy if the committee felt that what I have suggested was useful and appropriate.

The Convener: I thank Paul Grice and Anne Mearns very much. I will ask the clerks to produce a paper summarising this morning's discussion and the options on how to proceed, which we will discuss at our next meeting. Are members agreed?

Members indicated agreement.

The Convener: We will break for five minutes at this point.

Mr Macintosh: Before we do, are you going to refer to the correspondence that you have had with Elaine Thomson?

The Convener: No.

We will take a five-minute break.

11:15

Meeting suspended until 11:32 and thereafter continued in private until 11:37.

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