

STANDARDS COMMITTEE

Wednesday 6 November 2002
(Morning)

Session 1

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STANDARDS COMMITTEE

15th 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

THE FOLLOWING ALSO ATTENDED:

Christine Grahame (South of Scotland) (SNP)

CLERK TO THE COMMITTEE

Sam Jones

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

Committee Room 3

Scottish Parliament

Standards Committee

Wednesday 6 November 2002

(Morning)

[THE CONVENER opened the meeting at 10:02]

The Convener (Mr Mike Rumbles): Good morning. I welcome everyone to the 15th meeting this year of the Standards Committee. We have received apologies from Lord James Douglas-Hamilton and from Kay Ullrich, who is unwell. I extend a warm welcome to Mike Russell, who attends in Kay Ullrich's place as a committee substitute. I invite him to declare any relevant interests.

Michael Russell (South of Scotland) (SNP): Having reviewed my register of interests entries, I do not believe that I have any interests that are relevant to the committee.

Item in Private

The Convener: The first item on the agenda is to decide whether to take item 3 in private. Do members agree to do that?

Members indicated agreement.

Complaint

The Convener: Our main business today relates to a complaint against Christine Grahame MSP. It concerns an alleged breach of annexe 5 of the "Code of Conduct for Members of the Scottish Parliament". In considering the complaint, we are following a four-stage investigative procedure, which was set out in our "Models of Investigation of Complaints" report and agreed by the Parliament in November 2000.

The committee carried out an initial consideration of the adviser's report into the complaint in October and agreed to explore with Christine Grahame some of the issues that had been raised. She indicated that she wanted to make oral representations to the committee. Once we have heard from Christine Grahame, the committee will resume its consideration of the adviser's report. Under our investigative procedure, that consideration of the adviser's report should take place in private, as we have just agreed. We will then consider in public whether there has been a breach of the code of conduct and whether we agree with the adviser's report. Do members agree to follow that course of action?

Members indicated agreement.

The Convener: I welcome Christine Grahame to the meeting. Before I invite her to speak, members of the public and press might find it helpful if I outline the background to the complaint. The complaint that the committee is considering this morning relates to annexe 5 of the code of conduct for MSPs. That part of the code sets out the principles governing relationships between MSPs and it clarifies for members, constituents and other bodies how constituency and regional MSPs should interact in dealing with constituency and other cases. The annexe was endorsed by the Parliament and was incorporated into the code of conduct in July 2000. Complaints against members in relation to annexe 5 are, in the first instance, referred to the Presiding Officer. If the Presiding Officer is unable to reach an informal resolution, the matter is referred to the Standards Committee.

The complaint before us relates to three allegations. The first allegation is that Christine Grahame failed to notify the constituency member of her involvement in constituency cases and local general issues, in contravention of paragraphs 6 and 10 of the annexe. Paragraph 6 deals with constituency cases. It states:

"In the event that a regional ('list') MSP does raise a constituency case ... he or she must notify the relevant constituency MSP ... unless the consent of the constituent is withheld."

Paragraph 10 covers general local issues. It says:

"MSPs may wish to contact one another, as a matter of courtesy, where they are involved or planning to become involved in a major local issue."

That is not a mandatory requirement.

The second allegation is that Christine Grahame is in breach of paragraphs 14 and 15 of annexe 5. Paragraph 14 states:

"Regional Members should always describe themselves as:

'[Name], Member of the Scottish Parliament for [y] region.'"

Paragraph 15 states:

"Regional Members must not describe themselves as a 'local' Member for (or having a particular interest in) only part of the region for which they were elected."

The third allegation is that Christine Grahame has breached the provisions of paragraph 17 of the annexe, because she has focused her work in only part of the region that she represents. Paragraph 17 says:

"Regional Members are expected to work in more than 2 constituencies within their region."

As I have stated, once we have heard from Christine Grahame, the committee will continue its consideration of the adviser's report in private. We will then, in public session, consider whether there has been a breach of the code of conduct. I now invite Christine Grahame to make a statement to the committee.

Christine Grahame (South of Scotland) (SNP): Thank you, convener. First, I thank the committee for giving me this opportunity to address the complaints that Ian Jenkins lodged against me in his letter dated 26 March 2002, which alleges that I have breached the code of conduct, as you have helpfully explained, convener.

Before entering into the substance of the complaints as recommended by the adviser, I have two preliminary matters to raise, of which the committee has already been apprised with an advance sight of my statement.

First, my initial submission is one of tacit acquiescence in relation to the press releases, notwithstanding the intervention of the Presiding Officer, which was contained in a letter dated 28 August 2000—I think that members have that before them as appendix E. Incidentally, as members can see, I changed the headings shown on press releases. "Borders MSP" was deleted and became "Borders based"; "special responsibility" was deleted and

"Serving the Borders and East Lothian"

was inserted.

The important aspect is that it was not indicated to me that the complaint had come from Ian Jenkins. Sir David Steel did not disclose his source, even when I pressed him on the matter. I think that I was entitled to surmise that whoever had been the complainer at the time had been satisfied.

The first complaint of which I was aware from Ian Jenkins was therefore made on 17 April 2002, although that may in fact have been the same as the letter of 26 March. Nevertheless, that was some two and a half years into the parliamentary session. If the constituency member for Tweeddale, Ettrick and Lauderdale had problems with the designation, why did he wait for two and a half years? I can only surmise that, with an election coming, he has been prompted by someone, somehow, to take that action. Indeed, I asked Ian Jenkins in passing, "Why now, this complaint?" He replied, "I didn't want to do it. They made me." Obviously, Ian Jenkins himself had no problem with the designation. It is my submission that, having delayed for two and a half years, he can no longer complain, whether or not the complaint has substance. I therefore invoke the plea of tacit acquiescence, which, if accepted by the committee in respect of the press releases, would bar his alleged complaint from proceeding further in that particular instance.

Secondly, and on a separate note, I wish to advise the committee that the method of investigating such complaints requires revision. I am grateful that, of the six alleged breaches of failing to notify Ian Jenkins of constituency cases, only two appear to remain under the adviser's recommendation. However, I respectfully submit that even that is not correct. I refer the committee to the alleged breach in case 4 and to the sequence of e-mails that the constituents kindly forwarded to me, although I had also traced the e-mails. To assure their privacy, I will not name the constituents. It is clear that the constituents wanted me "solely" to deal with their case. Therefore, whatever happens after this Standards Committee investigation, more care must be taken in investigations that require information from constituents.

That leaves only one complaint in the category of failing to notify Ian Jenkins of constituency cases, comprising one letter from my assistant in the Galashiels office to a constituent. Perhaps it is not appropriate to ask a question during a statement, but I wonder whether the e-mails will be in the public domain. Should I read from them for the record?

The Convener: The e-mails will be in the public domain, but the senders' names will be removed.

Christine Grahame: Well, for the record, the e-mail of 24 April 2002 states:

"Dear Christine we would like to confirm that we wish you to deal with this matter concerning our daughters care."

That e-mail was in response to an e-mail from me that asked plainly whether I should tell Mr Jenkins about the case. It was followed up by another e-mail on 2 October 2002, which clearly states:

"Someone from the Scottish Parliament Standards Committee or something telephoned ... saying that Ian Jenkins had put in a complaint against you because you took on our case. I cannot believe that someone, especially someone who is meant to be a servant of the people could be so petty. Anyway, I have attached the 2 relevant e mails. The first one where you clearly ask us the question if we wish you to take on our case and the second one where we reply, clearly stating that indeed we do wish you to act on our behalf. Please contact me if you do not get these properly."

The writer goes on to ask whether they can do anything else to assist me. I will read no more from the e-mails. I do not want the constituents to have to go to the press or come to the committee about the matter. I think that the e-mail makes the case clear.

That leaves only one case, comprising one letter from my assistant in the Galashiels office to a constituent. Therefore, I do not believe that the investigation has been rigorous.

On a second matter in relation to the investigation, I refer to a call from the committee adviser to my assistant in the Galashiels office and to a letter of 8 October 2002 from the committee clerk. That letter states:

"I have spoken with Mr Spence, the adviser to the Standards Committee, and he confirms that he made the call. In finalising his report into the complaint made by Ian Jenkins MSP, Mr Spence wanted to check a detail. He was unsure if the Galashiels office was your 'constituency' office (as you are not a constituency MSP) or whether it was an SNP office. He spoke with your assistant, giving his name and the capacity in which he was calling and then asked the question. On being told that it was your constituency office, he replied 'Thank you. You have answered my question.'"

That call, which upset my assistant, was apparently made to obtain corroboration that I was deceitfully holding myself to be a constituency MSP. I refer members to extracts, which I hope they have, from the Scottish Parliament website gallery of MSPs. I was very naughty and picked examples from the Liberal Democrats, but I could have used any MSP. Robert Brown's web page has, under the heading "Contact", the word "Constituency", followed by a telephone number. The word "Constituency" is used similarly in Donald Gorrie's web page. Sir David Steel's web page is slightly different because it just says "Constituency Office" and then gives an address.

Therefore, what my assistant said is right. The Galashiels office is a Parliament office. If it were an SNP office, it would have to be in an SNP constituency. The Galashiels office is a

constituency office for the South of Scotland. There was nothing misleading. The incident was unfortunate and brings into question the manner of the investigation of the complaint.

I notice that I omitted to mention in my written response the issue of the requirement for regional MSPs to operate in more than two constituencies, which I think the adviser regards as an issue in my case. The South of Scotland region is extremely large. I do not know whether other regions have two offices. However, we have two offices because the South of Scotland is such a large geographical area. To be quite frank, it would be, I suggest, a nonsense when there is an office in Ayr dealing with all the side of that coast—with people able to go in and out of that—and there is one on the east coast for me not to have been dealing with the other side.

I think that I made it plain in my written response to the adviser that, when someone from any part of the South of Scotland region asks me to take part in something, I will do so, as will my colleagues if similarly asked. Indeed, I have been involved in three campaigns from the west side of the South of Scotland. One campaign was on Clydesdale tomatoes. Members will perhaps not remember, but I distributed the contents of a crate of tomatoes around the Parliament in its early days. That was to do with the promotion of Scottish tomatoes. I was also involved in the Carrick Street campaign in Ayr, which concerned the elderly facilities there—those facilities unfortunately closed. Troon community council campaigned about the proposed closure of care facilities for the elderly. The organisations came to me and I engaged in those campaigns.

When there is an issue about which my colleagues have more specific knowledge—Mike Russell knows about education and Adam Ingram knows about opencast mining and mental health problems—I refer it to them, just as they refer justice issues to me. I might deal with those issues directly or I might give advice on them to my colleagues. That means that there is shared responsibility. On a practical level, it would be extremely difficult to fly about all over the constituency. All political parties in Scotland use the existing informal and flexible arrangement. I leave that issue to the committee's consideration.

10:15

I thank the committee for its time. I stress that Sir David Steel's letter of 28 August 2000 did not interrupt the period of two and a half years, because Ian Jenkins was not identified as the complainer, even though I pressed the Presiding Officer on the matter. If the committee does not accept my submission of tacit acquiescence by Ian Jenkins, I make the following statement.

I accept the finding about the heading

"Serving the Borders and East Lothian".

My intention was to be helpful to constituents and I thought that I had used the heading in compliance with the guidelines. I undertake to delete the heading. Indeed, I have brought copies of my most recent press releases, which no longer have that heading on them. I have already given instructions in that regard. One press release might slip through, if someone takes over an existing pro forma. I will do my damndest, if I may use that word on the record, to ensure that the press releases take the proper form.

I am in the committee's hands on the use of the phrases "locally based" and "Borders based". I am locally based and Borders based. I note the adviser's views, but I do not share them. That is a matter for the committee.

I admit to the remaining complaint about one constituency case, which comprises one letter, if the committee accepts my submissions in relation to the e-mails on case 4. However, I ask the committee to consider the matter de minimis. If, through an assistant, I have committed a breach in one letter, the issue is so slight as to make it a case of de minimis. It should therefore be disregarded.

I thank the committee for its forbearance and, like many others, I regret the time and money that have been spent on the issue.

The Convener: We come to the next phase of the process. I invite questions from the committee.

Tricia Marwick (Mid Scotland and Fife) (SNP): Thank you for coming here today. I want to ask about the descriptions that you used of yourself as "locally based", "Borders based" and

"Serving the Borders and East Lothian".

You make a claim of tacit acquiescence. Do you accept that it does not matter whether Ian Jenkins accepted the situation for two and a half years?

The standards adviser has addressed the issue of whether annexe 5 of the code of conduct, to which we all signed up, has been breached. Paragraph 14 of the annexe states:

"Regional Members and constituency Members must describe themselves accurately so as not to confuse those with whom they deal."

It prescribes precisely the way in which constituency members and regional members should always describe themselves. The issue is not about whether Ian Jenkins or any other individual accepted the position. It is about whether any description that is used is in accordance with annexe 5 of the code of conduct. Do you accept that the descriptions "locally based", "Borders based" and

"Serving the Borders and East Lothian"

do not meet with the requirements of annexe 5?

Christine Grahame: On the plea of tacit acquiescence, a complaint has to be brought to the Presiding Officer or the Standards Committee to trigger any action. I am not saying that the entire complaint is barred. When one is charged with various items on a complaint in a criminal court, one of those items sometimes has to be deleted because it cannot stand. My submission is of the same manner, because the issue is of a quasi-judicial nature.

The committee is entitled to say that the complainer to the committee is barred from raising that particular part of the complaint, because he acquiesced for two and a half years. If someone else wants to complain about the issue, that would be another matter. However, the committee cannot consider the issue in question now. I have already addressed the substance of the issue and have indicated my preliminary plea.

I have made my submission on that part of the charge, if I may call it that, which is that I acted in good faith. The term appeared only in press releases, rather than in my letter headings. I wanted to show which areas I dealt with in the main. I have already deleted the term from my press releases and it appeared nowhere else.

The Convener: The committee is concerned not with the behaviour or conduct of any other MSP, but with your behaviour.

Christine Grahame: I accept that.

The Convener: A complaint was made, which the adviser investigated. We are considering the adviser's report. The committee is concerned with your behaviour in relation to the code of conduct.

Tricia Marwick: Do you accept the standards adviser's conclusion that you are in breach of paragraph 15 of annexe 5 of the code of conduct with respect to the terms "locally based", "Borders based" and

"Serving the Borders and East Lothian"?

You have accepted that in future your press releases and stationery—

Christine Grahame: The terms do not appear on my stationery.

Tricia Marwick: You have accepted that in future your press releases and other material—

Christine Grahame: The terms appeared only in my press releases.

Tricia Marwick: You have accepted that in future your press releases will say that you are the MSP for the South of Scotland.

Christine Grahame: Only my name appears on

my press releases—I have deleted everything else. I am happy to circulate my most recent press release.

Michael Russell: I would like to ask a question about the e-mail that you have provided, which is dated 24 April 2002, timed at 09:25 and headed “RE: Draft letter”. The last two sentences of paragraph 6 of annexe 5 of the code of conduct state:

“In the event that a regional (‘list’) MSP does raise a constituency case (for example with a Minister or local authority) he or she must notify the relevant constituency MSP at the outset unless the consent of the constituent is withheld. A suggested pro-forma for this purpose is attached at Appendix A.”

Have you seen that pro forma? To what extent do you think your e-mail of 24 April conforms to paragraph 6 of annexe 5 of the code of the conduct?

Christine Grahame: As so often happens when a constituency MSP has not dealt with a matter suitably—which is why I was contacted—I had an urgent meeting with the people concerned. At that meeting, I said that they must make it plain that they wanted me to pursue the case and that they did not want Ian Jenkins to be informed, because he had previously dealt with it. They indicated that they understood that. The case concerned an adult autistic daughter who was in extremis in the premises in which she was housed. There was not a great deal of time for correspondence. Urgent meetings had to be arranged, because the woman’s parents were in extreme difficulty.

I drafted the letter and sent the e-mail at the same time. I think that the e-mail complies with the code of conduct, because the import of the constituents’ comments is quite clear. They did not want the constituency member to deal with their case. They wanted me to deal with it alone and not to inform him of what I was doing. I took that to be the case. The situation was urgent, but I felt that the e-mail complied with the code of conduct and that I had not done anything untoward.

Michael Russell: The e-mail states:

“I am required, because I am a list MSP to have you confirm that you wish me to deal with this”.

You are saying that your intention was to ask the constituents to confirm that they did not want you to follow the normal practice of informing the constituency member.

Christine Grahame: The e-mail followed a conversation that I had had with the people concerned. I had met them and explained the circumstances in which I could deal with the case. I was seeking confirmation that I should send a very urgent draft letter. I think that the constituents made it plain that that was the circumstance. If the committee wishes to inquire further, I am sure that

the constituents will satisfy members that they knew that I was to deal with the matter and that they did not wish the constituency MSP to be informed.

Michael Russell: I also asked whether you had seen the pro forma in appendix A of annexe 5.

Christine Grahame: I have seen it.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I want to return to the issue of your description and to clarify Tricia Marwick’s points and your responses to them. As I understand it, you accept that your description in press releases as being “locally based”, “Borders based” and

“Serving the Borders and East Lothian”

contravenes the relevant paragraphs of the code of conduct, specifically the point that

“Regional Members must not describe themselves as a ‘local’ Member for (or having a particular interest in) only part of the region for which they were elected.”

Christine Grahame: I accept that the description

“Serving the Borders and East Lothian”

contravenes that paragraph, although it was written in good faith, given where the office is. However, I put into the committee’s hands the issue of the descriptions “locally based” and “Borders based”. My argument is that I was simply saying where the office is.

Susan Deacon: You said that, as a result of the matters being considered, you will change the description.

Christine Grahame: I point out that the press release that members have does not contain the description “Borders based”; it contains the phrase “SNP MSP Christine Grahame”.

Susan Deacon: A number of other documents contain the phrase “Borders based”.

Christine Grahame: Yes, but they predate the one that members have. I changed the phrase “Borders based” in the later ones. We are not talking about one constituency. At least two constituencies are involved.

Susan Deacon: I am aware of that. You said earlier, and we are aware from the correspondence, that this is not the first time that the matter has been raised with you. You referred to the letter dated 28 August 2000 from the Presiding Officer and said that you made changes to the description on the basis of that letter. The last line of that letter states:

“May I suggest that if you have any queries on any aspect of the guidance that you contact my office or the Standards Committee clerks.”

After the matter was raised, you clearly decided to act. Did you have any further conversations with or make any queries to the Presiding Officer or the Standards Committee clerks to establish whether the revised descriptors were in accordance with the code of conduct?

Christine Grahame: No, I did not, because when I changed the descriptors there was no complaint to the Presiding Officer. Obviously, whoever was sourcing the material did not complain to the Presiding Officer. I thought that I had solved the problem. The changes were made, the press releases went out and the period from August 2000 to March 2002 elapsed. I had no cause for concern about the matter until I received the letter of 26 March 2002.

Susan Deacon: Do you accept that, as Tricia Marwick said, each MSP has a responsibility to ensure that they comply with the code of conduct, notwithstanding what other people say or claim?

Christine Grahame: I cannot put words into the Presiding Officer's mouth, but I presume that the changes that I made and the new press releases were also forwarded to him by whoever was sourcing the material, because there were no further complaints. I did not know that I was still offending the code of conduct and I had no reason to believe that the Presiding Officer was not happy.

Paul Martin (Glasgow Springburn) (Lab): I am sorry to be difficult, but although you have revised the format of your press releases, there are still questions. In the press release that the committee has, you do not say which region you represent.

Christine Grahame: I am happy to put "South of Scotland" on the press release.

Paul Martin: I am sorry if I appear to be difficult, but there are issues about the fact that you wish to amend the format from the previous version. The press release does not include a constituency address or specify the region that you represent—

Christine Grahame: It includes constituency contact numbers and mobile numbers. The release includes contact numbers for the Borders.

Paul Martin: May I just finish?

Christine Grahame: Sorry.

Paul Martin: Is it acceptable for you to include party material and contact details at the top of the release?

10:30

Christine Grahame: Oh, yes. There is no parliamentary logo on the release. I have been down this route in respect of the office. The release is pretty standard and no objection has

been made to the fact that the party logo appears on it. It is obvious that I am a SNP MSP.

Paul Martin: I appreciate that this is not the main basis of the investigation, but for the sake of clarity we should clarify that—

Christine Grahame: I have had no notification of this—

The Convener: Christine, will you please let Paul ask the question?

Christine Grahame: Sorry.

Paul Martin: Is it acceptable to indicate a party website address on a press release? Surely the inclusion of www.snps.org is a political statement. Is it acceptable under present parliamentary guidelines for press releases to include such information? I would like to take guidance from the adviser in respect of that issue, convener.

Christine Grahame: I do not think that it is appropriate—

Paul Martin: Please give me the opportunity to finish the question, Christine. You said that you revised the format that you use for your press releases. I have asked through the convener for clarification of whether the format that you use meets the Presiding Officer's current guidance. The question is important.

I would like to move on to another point.

The Convener: Would you like Christine to respond to the first point before you do so?

Christine Grahame: I have not had notice of the point and it does not form part of the complaint against me. If the committee expects me to address the point, in fairness I expect an adjournment. I have no problem with returning at another time to address that issue, but I will not do so on the spot.

The Convener: The point does not form part of the complaints that are covered in the report.

Paul Martin: I want to make the point that Christine Grahame has advised the committee that she revised the format of her press releases. I asked the question because I want clarification about the new format of her press releases.

Tricia Marwick: Might I suggest that, before Christine issues a new style or format of press release, she consults the Standards Committee clerk, who will be able to give her advice about whether her new format meets the requirements that are laid down in annex 5 and the remainder of the code of conduct?

The Convener: That is an eminently sensible suggestion, if Christine would be happy to do that.

Christine Grahame: Yes. As we have come on

to a new tack, I want to know what information MSPs in other political parties issue in their press releases. We have moved on to a fresh line of inquiry about which I was unaware.

The Convener: I am keen to keep the questioning specific to the report. I ask members to move forward on that basis. Do you have a second question, Paul?

Paul Martin: No.

Mr Kenneth Macintosh (Eastwood) (Lab): I will return to the substance of the report. Without going into the merits of the protocols, I can tell from your statement and evidence today that you have your own interpretation of the requirements or disagree with some of the reasoning behind them. However, I believe that the requirements are there to try to reduce conflict between regional and constituency MSPs. To be frank, I am concerned that, although the adviser has made clear his findings, you have difficulty in accepting some of his arguments.

I ask you to confirm that you accept the difficulty, will address it and will modify your behaviour in order to try to resolve it. We do not want a local constituency MSP feeling aggrieved that you are passing yourself off in a way that he finds unacceptable. I am trying to draw out that difficulty—

Christine Grahame: That is kind of you.

Mr Macintosh: Do you accept that you have to try to address the issue?

Christine Grahame: Yes. I understand that. However, I work across at least three constituencies—with equal vigour in each of them, some might say—and I find it difficult to accept the idea that I could be perceived to be the MSP for a particular constituency.

I can see that, in relation to the local office in particular, I must be clearer. I offer that not as an excuse, but by way of explanation. Sometimes you are phoned up by a person who, for example, has sheriff officers at the door and you are asked on the spot what that person should do. At that point, you might not have time to say, “This is a case. I am going to inform the constituency MSP.” You just get on with it and say, “Do such and such—you must get a solicitor round,” or, “Go to the citizens advice bureau.” In the case of the Gala office matter—which I think related to one letter—I have made it plain to my assistant what he must make clear. I must get that down in some form of writing.

As I have found to my cost, e-mails are not always the best way of communicating. I accept what the adviser was told in this case, but the constituent was in a state and did not remember what had happened. We had discussed the

situation and made it plain. Thank goodness that I had the e-mails from that time. I will endeavour not to upset Ian Jenkins, his colleague Euan Robson in the neighbouring constituency or Mr Home Robertson in this fashion.

In relation to the press releases, I have already taken steps to address the situation. I emphasise that the terms used were never on my correspondence. Generally speaking, the press releases would be going to papers in the area. I accept that the committee is not going to accept my preliminary argument of tacit acquiescence. On the substance, I have made the changes. If the committee requires me to put “South of Scotland” on press releases, I am happy to do so; that is not a problem. I will instruct my assistant who deals with my press releases to do that today.

Susan Deacon: I want to explore the point that Christine Grahame just concluded on. I am genuinely perplexed at the apparent complexity of the issue. I wish to reiterate a question that Paul Martin posed earlier, which was not answered. The code of conduct states clearly and unequivocally:

“Constituency Members should always describe themselves as:

‘[Name], Member of the Scottish Parliament for [x] constituency.’

Regional Members should always describe themselves as:

‘[Name], Member of the Scottish Parliament for [y] region.’”

Given that the press release that we have been given seems to be at least the third format of press release that you have issued, Christine, why does it not simply state, “Member of the Scottish Parliament for South of Scotland region”?

Christine Grahame: It is silly. I admit that it is a foolish omission. There is no plot behind this. I will simply add, “Member for the South of Scotland”. That is not a problem.

The Convener: Are there any other questions? If there are none, I will sum up.

The first issue is the form of address. The Standards Committee is interested to make sure, regardless of who issues a complaint, that the code of conduct is upheld and adhered to by all MSPs. One of the issues is the form of address, which you seem to have accepted, Christine.

Christine Grahame: Yes.

The Convener: As convener, I am happy with that. The reason for the guidance is so that we do not confuse the people with whom we deal.

The second issue is confidentiality. I think that you also accept that the norm is that, if you take up a constituency case, you inform the

constituency member.

Christine Grahame: That is correct.

The Convener: My other concern—on which I would like a response—is that this is the third occasion on which an MSP has been before the committee in relation to a breach of annexe 5 of the code of conduct. On each occasion, I have expressed dismay that we have reached this stage. In fact, you also expressed dismay in your opening statement about the time and effort that has gone into this matter.

I point out that the Presiding Officer issued to all members specific guidance on these issues on 28 September 2000 and wrote to you specifically on this matter on 28 August 2000. I want to make sure that you accept entirely what we are saying about informing constituents and how you describe yourself and I want to be clear about what you will do from now on.

Christine Grahame: Of course. The one complaint that stood up, in my view, concerned one letter. I have complied.

The Convener: The committee is only interested in changing behaviour to ensure that all members adhere to the code of conduct.

As there are no other questions, let me thank Christine Grahame for coming.

Christine Grahame: Thank you.

The Convener: As we agreed at the beginning of the meeting, we will now move into private session to continue our consideration of the adviser's report. Once that is complete, we will return to public session to make a decision on whether there has been a breach of the code of conduct, whether we accept the adviser's report and, if we do, whether sanctions are appropriate. I ask members of the press, public, broadcasting and official report to leave the meeting.

10:39

Meeting continued in private.

10:53

Meeting continued in public.

The Convener: I thank members of the public and press for their patience. The committee must now decide whether we agree with the adviser's report and whether there has been a breach of the code of conduct. If we decide that there has been a breach of the code of conduct, we must also decide whether sanctions are appropriate. I would appreciate it if members gave the reasoning behind their findings.

Tricia Marwick: Having heard Christine

Grahame and having read the adviser's report on the complaints that have been made against her, I accept the adviser's conclusion that Christine Grahame has contravened the code of conduct—in particular, annexe 5. Nonetheless, I believe that sanctions should not be applied in this case, although we should admonish Christine Grahame.

I was pleased that Christine Grahame said in her evidence that she is happy to run by the Standards Committee clerks any future press release material or letter headings. That would be extremely useful and I am grateful that she has agreed to do that.

Mr Macintosh: I, too, accept the findings of the adviser's report. It is a matter of regret for all of us, including Christine Grahame, that the issue has come before the Standards Committee. I recognise that Christine Grahame has agreed to modify her behaviour and, on that basis, I do not think that there should be any sanctions.

Paul Martin: My view is similar. I accept the adviser's report and the recommendations of Tricia Marwick and Ken Macintosh. We should move forward. Christine Grahame has shown some consideration in revising her operations in respect of both her media releases and her relationship with the constituency members. I look forward to her carrying out her obligation and commitment to doing that in future.

Susan Deacon: I listened carefully to Christine Grahame and read the associated papers and I accept the adviser's report. The code of conduct has been breached—specifically annexe 5. I agree with colleagues that sanctions are not appropriate in this case. However, it is important that members take responsibility for their actions in such matters. I am surprised and disappointed that matters were not addressed more fully following our correspondence on the issue two years ago. Nevertheless, I note the fact that Christine Grahame intends to change her practices in the future.

Michael Russell: I, too, listened carefully to what Christine Grahame had to say and I considered the papers. I concur that there has been a breach of the code of conduct and I accept the adviser's report in full. I also concur with the view that sanctions are not appropriate in this case but that, as Tricia Marwick said, Christine Grahame should be admonished.

It is to be welcomed that Christine Grahame said, towards the end of her evidence, that she intends to observe the code of conduct in key areas in future and it is important that some items are drawn to her attention in that regard. Paragraph 6 is a key paragraph on communication, which she does not seem to have fully understood, and paragraph 14 is also

important. It is possible to disagree with what the code of conduct currently says. However, as it exists, it must be observed by all members.

The Convener: In summary, the committee accepts in full the adviser's report that there has been a breach of the code of conduct but feels that no sanctions are required because Christine Grahame has recognised that she has been in breach of the code and has said that her behaviour will be modified in future. She has also agreed to check one or two issues with the Standards Committee clerks before she issues press releases, for example.

I put on record my disappointment that the issue has come before the Standards Committee. Any breach of annexe 5 is a breach of the code of conduct and the code of conduct must not be breached. I have said on other occasions when MSPs have appeared before the committee because they have breached annexe 5 that the matter should have been sorted out before it got to the Standards Committee. The Standards Committee will look extremely severely at any future case that comes to the committee involving the same issue. We will produce and publish our report as soon as possible.

Scottish Parliament and Business Exchange

The Convener: Our next item is the Scottish Parliament and Business Exchange. At our meeting in October, we took evidence from the convener of the business exchange, Paul Grice, and its director, Anne Mearns. Members will have received an issues paper, which summarises the evidence that we received and provides some background on the Industry and Parliament Trust at Westminster. The paper also offers some initial thoughts on our next steps as a committee. I would like to hear comments from members on the paper or the evidence session.

11:00

Tricia Marwick: I thank the Standards Committee clerks for producing the issues paper. I still have concerns about how the business exchange was set up and how it operates. The paper seems to suggest that the business exchange should be some sort of hybrid organisation—that it should remain a limited company but that the Standards Committee should be involved in so far as the clerks should give advice when it is sought and the convener of the business exchange should bring forward issues to the committee. However, I do not think that we will be able to ensure that the business exchange, as such a hybrid organisation, is carrying out the requirements as laid down.

I do not think that the business exchange has enhanced the reputation of the Parliament. Indeed, I think that the opposite is true—the activities of the business exchange have harmed the Parliament. I am not satisfied that the business exchange should continue as it is. I note that the chief executive of the Parliament said to the committee that he is willing to come before us and that he is willing to give us reports. However, the business exchange is not accountable to the Standards Committee in the way that cross-party groups are.

I am not suggesting for a minute that the business exchange is the same as a cross-party group, but I am unhappy about the proposed hybrid nature of the organisation. The business exchange would use the resources of the Standards Committee and its clerks, yet the committee would have no influence over how its business is carried out, who is appointed to it or the kind of placements that will take place.

Having heard the evidence that was given to us by the clerk to the Parliament and the director of the business exchange, I still have grave concerns—my concerns have not been allayed.

We must consider seriously how the business exchange should operate. The Standards Committee should report to the business exchange and to the Parliament about how we see the organisation operating in the future, if it does at all.

The Convener: I know that you are saying that your concerns were not allayed by what you heard, but I am not clear about what you specifically propose that we do.

Tricia Marwick: The chief executive of the Parliament suggested that the business exchange should become a hybrid organisation. It will continue as a limited company, but will report to the Standards Committee and give us more information than we have had in the past, which was precisely nil. I do not think that that suggestion is good enough. Either the Standards Committee is responsible for the business exchange in the same way as we are responsible for cross-party groups, or we are not. In my view, the business exchange cannot seek advice from the Standards Committee clerk when the committee has no influence over the organisation's operation. Too many mistakes have been made in the past. I have no confidence that the business exchange, as constituted, will not harm the Parliament in the future.

Mr Macintosh: I find myself coming to similar conclusions to those of my colleague Tricia Marwick, but for totally opposite reasons. I share her concerns about the lines of accountability in the business exchange. MSPs in the business exchange are influenced by the behaviour of everyone in the Parliament and MSPs are accountable to the Standards Committee. However, I require a little more clarification of whether the business exchange is accountable to the Scottish Parliamentary Corporate Body or to the Standards Committee. To whom does it report regularly?

Having said that, I make it clear that I welcome the business exchange. All MSPs are free to avail themselves of the opportunity to learn about business by participating in a company's affairs. Such a scheme provides both MSPs and the public with greater protection and a better framework in which to operate. It encourages greater transparency, because the framework exists and everyone can see the relationship—we all benefit from that. There have obviously been a few early difficulties in establishing the scheme, but we should make it clear that there has been no impropriety. We are discussing the topic because an MSP was concerned about signing a confidentiality agreement. That issue has been resolved. It has been made clear that the MSP's duty is, as always, to the Parliament, the public and her constituents, not to a private company.

Another issue was the involvement in the exchange of a large number of employees on the public relations and public affairs side of a company. That does not surprise me. Such people tend to be the ones who are most comfortable and familiar with dealing with politicians—they are perhaps the best people to introduce members to a company's operations. Again, there have been no allegations of impropriety. However, it is important that the relationship between business and MSPs is fair and open. I am concerned that that relationship could be put at a disadvantage. We should not make businesses justify their relationship more than voluntary organisations, charities and other pressure groups have to. We should treat businesses in an even-handed manner.

I welcome the business exchange, because it offers a transparent framework in which to operate. I believe that our overview of cross-party groups could teach us some lessons about the Standards Committee's relationships with intramural and extramural parliamentary organisations. I do not know whether we should treat the business exchange as a cross-party group, but we could use our report and any findings on the groups to return to the issue and work out what our relationship should be with the business exchange. As I said, some clarity is required, but I make it clear that I am not hostile to the operation of a business exchange, which is a welcome development. We just have to ensure that it operates in a transparent manner.

Susan Deacon: I reiterate for the record a comment that I have made in previous outings of the issue. I am passionately keen to support the development of effective links between MSPs and not just business, but other sectors, including the public and voluntary sectors. That is why I feel strongly that it is vital for us to have in place arrangements that are effective and robust and that stand up to scrutiny.

When the business exchange scheme first came to the attention of the committee, I expressed some concerns about what were at that stage relatively marginal issues about its operation, which I thought could be modified and improved. Having heard the evidence at our last meeting, I was, far from being reassured on those points, more concerned about the operation of the scheme. I believe that a certain naivety ran through much of what was said to us. That naivety worked its way through into aspects of the operation of the scheme, which is perhaps why we are where we are and the scheme has been discredited to a degree. Rightly or wrongly, the reputation of the scheme has been tarnished and, de facto, the Parliament has suffered from its association with the scheme. Whether one thinks that that is deserved or an overreaction, it is a

statement of fact that the scheme has been tarnished. We should be mindful of the fact that that will undoubtedly have a deterrent effect on the participation of MSPs and companies in such a scheme in future.

I believe not only that the perception of the scheme is a cause for concern, but that the scheme contains structural flaws, which were described to us at our last meeting. There is insufficient accountability. Ken Macintosh asked whether the scheme answers to the corporate body or to us. That question was answered clearly at our last meeting. The scheme does not answer either to the corporate body or to any other parliamentary body; it answers to a company that is limited by guarantee, albeit that MSPs are well represented on it.

I for one think that that is an insufficient level of accountability. The scheme is insufficiently transparent, which is not to say that there is anything fundamentally wrong with the way in which it operates. I stress that no impropriety has been found, but the mere fact that it has proven to be so difficult to achieve clarity around certain aspects of the scheme serves to demonstrate that lack of transparency and creates a sense of doubt about how the scheme operates.

The scheme has an insufficient mix of sectors operating as part of it and an insufficient mix of individuals from within those sectors and enterprises that have taken part in it. There is no time to expand further on that point this morning, but I want that view to be noted. Despite the improvements that have been made in the guidance and protection that is afforded to MSPs and companies that participate in the scheme, the framework remains insufficient, particularly in relation to the potential for actual or perceived conflicts of interest.

I move on to where I think we should go from here, which I am sure is what the convener wants me to do. At one level, we have no say in the matter. That was the state of play at our last meeting, although I recognise that willingness was expressed to take the committee's views seriously. I will therefore take the opportunity to say that my view is that there needs to be a fundamental review of the operation of the scheme. I note that we were told that there would be no further inward exchange programme prior to the next elections in any event. It strikes me that that gives us an opportunity to have such a fundamental review.

I would like whoever is responsible for reviewing the scheme to come forward with a significantly different arrangement from the one that exists now, albeit that there are strengths that ought to be maintained and built on. Whoever draws up such a review could helpfully bring it to the attention of the committee for our input and indeed

for the input of other parliamentary committees. For example, the Procedures Committee could consider some issues, which would add value to the process of considering how we have an effective scheme.

I do not go as far as saying that a future scheme should report to the Standards Committee. I remain open-minded about a future reporting channel or formal parliamentary accountability. I suspect that that could take one of many forms. However, the status quo is unacceptable. I hope that we will—to coin a phrase—turn the threat to the scheme into an opportunity to develop a better and more robust scheme in which the next session of Parliament can take pride and in which MSPs and organisations can participate widely and productively.

11:15

Michael Russell: I have not been party to the discussions, but I feel exactly how Susan Deacon feels. I was uneasy about the business exchange's establishment and how it operated, without being able to put my finger on why. Now that I have read the account of the evidence that the committee took, my finger is firmly on the reason. Accountability, openness and accessibility—key founding principles of the Parliament—are not being met.

I question why it was necessary to adopt a Westminster model, even slightly modified, rather than to consider this Parliament's existing models for involving organisations and individuals. I am keen for a strong dialogue and learning process with business. However, following the cross-party group model—although that itself has problems and is being reviewed—would have been more appropriate than creating an organisation in a special category of its own.

I am particularly concerned—I hope that I am allowed to make this observation—that although restrictions have from time to time been placed on the involvement of parliamentary staff in cross-party groups, the business exchange is chaired by the most senior member of parliamentary staff. That is a glaring inconsistency.

In those circumstances, it is important that—as Tricia Marwick and Susan Deacon said, and as Kenneth Macintosh said for other reasons—the matter falls under the normal purview of the committee and the Parliament, as it involves members' actions and the absolute openness and transparency of our interaction with all sections of the Scottish community. The recommendations in the briefing paper are welcome, but they do not achieve those aims, because they continue to recognise a special way of doing things, rather than encouraging the business community and the

Parliament to interact as part of the Scottish community.

Paul Martin: When I asked Paul Grice whether a business exchange was required, he responded by making it clear that no requirement exists. He encourages a wide range of opportunities for MSPs to meet businesses. That is the issue for discussion—the various methods by which businesses can communicate with MSPs.

The issue for me is clarifying the business exchange's effectiveness. It might be an idea to have an independent audit of the business exchange's effectiveness since its introduction. The main issues are ensuring that the business exchange is effective and communicates with MSPs and deciding whether a formal procedure is required. I would also like to clarify the effectiveness of the business exchange process and its workings. We should consider auditing that independently.

Tricia Marwick: The business exchange holds a special and privileged position in the Parliament, because it is not within the Parliament but operates in the Parliament's name—it is called the Scottish Parliament and Business Exchange. However, the Parliament was never asked whether there should be a business exchange and members never discussed, by motion, whether there should be a business exchange. The exchange was set up by the Presiding Officer and the clerk to the Parliament and, as Paul Grice rightly said, it was supported by the leaders of all the political parties. The cross-party groups—we will be considering one today—must have the approval of the committee. However, the business exchange was set up with no approval from any institution in the Parliament. Because of that, many mistakes have been made that have caused the Parliament difficulties.

The Parliament and the Standards Committee currently have no input into the business exchange and any input that the committee may have from here on in will be only that which the business exchange seeks. We cannot say that the business exchange will do X, Y and Z, because that is not our role. The reports that will be issued to us—and the timing and content of those reports—will be decided by the business exchange. I share Susan Deacon's view that the business exchange must change. We cannot continue with the situation that exists at the moment. My view is that, if the business exchange is to exist in the future, it must be accountable to a committee of the Parliament. At the moment, it is not.

The situation must be addressed by the business exchange and, ultimately, by the Parliament. The business exchange will exist only as long as MSPs continue to give it their support

and I am not convinced that there is a great appetite among MSPs to give it that support in the light of the naivety of the operation up to now. If it is to continue with the support of the majority of MSPs, the business exchange must be accountable to a committee of the Parliament.

The Convener: As members have no other comments, I shall sum up. The committee believes that the recommendations in the paper are not sufficient. Having taken advice from the clerk and legal advice, I suggest that we ask the clerk to produce for the next meeting a draft report from the committee to Parliament, raising our concerns and making suggestions about the way in which Parliament should take the initiative.

Mr Macintosh: There are parallels with the cross-party groups. We could learn a great deal from the structures, reporting, accountability and financing of cross-party groups, as Mike Russell pointed out.

The Convener: As members have said, we have a slight problem, in that we have been involved with the creation and regulation of cross-party groups, whereas the business exchange has been created with no reference to any parliamentary committee or any official organ of the Parliament. I think that the most appropriate way for us to proceed would be to ask the clerk to produce a draft report for the Parliament, making all MSPs aware of our concerns and our suggestions for ways forward. Are members agreed?

Members indicated agreement.

Cross-party Group

The Convener: Our next item of business is consideration of a request from the convener of the cross-party group on citizenship, income, economy and society to extend the remit of the group and to rename the group the cross-party group on business, economy, environment and society. Members have the relevant papers. Are there any comments?

Tricia Marwick: I wonder whether there is a need for any other cross-party group in the Parliament, given the range of activities of this group. Perhaps it is a takeover bid by Robin Harper. I have no substantive comments. We are in the middle of a review of cross-party groups, but there is no reason for that to delay approval for the establishment of this group.

The Convener: We have talked about rationalisation of cross-party groups, but it is rather extreme to suggest that all groups should have one-word headings. However, I take the point that the member makes.

Susan Deacon: I hope that the establishment of this group does not signal a move towards groups being described by their acronyms. In his letter, the member goes so far as to describe the group as the "CPG 'BEES'". If we were to reverse that construction, we would end up with the CP Bee Gees.

The Convener: Are we content to approve the request?

Members *indicated agreement.*

Draft Committee Report (Alleged Unauthorised Disclosure)

The Convener: The final item on our agenda concerns the alleged unauthorised disclosure of a draft Justice 2 Committee report. The committee will recall that we asked the Justice 2 Committee to conduct an initial investigation into the alleged leak. The committee has provided us with its findings.

We will take this item in public, but I would be grateful if members would avoid commenting in too much detail on the information in the Justice 2 Committee paper, to avoid compromising any possible investigation by the adviser.

In the light of the additional information that we have received from the Justice 2 Committee, we must decide today whether to exercise our discretion under the code of conduct and to direct the standards adviser to carry out an investigation. Paragraph 8 of the Justice 2 Committee's paper states:

"The Committee is ... content to leave the decision about whether a full investigation would be productive to the discretion of the Standards Committee."

That is a most helpful comment.

Tricia Marwick: When we considered the matter previously, we referred it back to the Justice 2 Committee. We suggested that it conduct the initial investigations instead of referring the matter to the Standards Committee in the hope that we would conduct those investigations on its behalf.

We have commented previously on the difficulty that we have in investigating unauthorised leaks. In paragraph 7 of its paper, the Justice 2 Committee states:

"In the light of the limited evidence likely to be available, the Committee accepts that it may be difficult for the Standards Committee to investigate although Members did suggest that a full investigation might at least discourage future leaks."

Future leaks will be discouraged when MSPs take responsibility for their actions. If MSPs leak, they undermine not only their committee colleagues and the Parliament's committee structure, but the Parliament itself.

The Justice 2 Committee has been able to assemble only limited information about the leak. There is insufficient evidence for the Standards Committee to investigate the unauthorised disclosure of the Justice 2 Committee's draft report.

The Convener: As Tricia Marwick indicated, the Justice 2 Committee states:

"Although the Committee thinks it likely that an MSP member of the Committee was responsible, there is no specific evidence to confirm this or to point towards a particular member."

For that reason, I agree that it would be fruitless for us to investigate the matter. We should not exercise our discretion to do so in this case.

Are members content with that?

Members *indicated agreement.*

Mr Macintosh: We should make it clear that, although we cannot investigate this case further, we disapprove whole-heartedly of unauthorised disclosure and would like to get to the bottom of an instance of such activity.

The Convener: That is taken as read.

Meeting closed at 11:28.

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