

# **STANDARDS COMMITTEE**

Wednesday 4 December 2002  
(*Morning*)

Session 1

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## STANDARDS COMMITTEE 17<sup>th</sup> 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

### CLERK TO THE COMMITTEE

Sam Jones

### SENIOR ASSISTANT CLERK

Sarah Robertson

### LOCATION

Committee Room 3



## Scottish Parliament

### Standards Committee

*Wednesday 4 December 2002*

*(Morning)*

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

### Items in Private

**The Convener (Mr Mike Rumbles):** Welcome to the 17<sup>th</sup> meeting in 2002 of the Standards Committee. I have received apologies from Tricia Marwick, but I welcome Mike Russell in her place.

Item 1 is consideration of how to proceed with items 3 and 4. Item 3 is an update on the appointment of the standards commissioner. As that relates to a continuing recruitment process, I propose that we take it in private. Do members agree to that?

**Members** *indicated agreement.*

**The Convener:** Item 4 is our initial consideration of a report from the standards adviser concerning a complaint against a member. The committee will recall that the procedure is for us to undertake the initial consideration at stage 3 of our investigative process in private. Do members agree that we should take that item in private?

**Members** *indicated agreement.*

## Cross-party Groups

**The Convener:** Item 2 is our review of the cross-party group system. At our previous meeting, the committee agreed that the clerks should produce issues papers, which they have done. In discussing those papers, we may wish to decide whether we should attempt to progress any changes to the rules in this session. If we decide to commission external research, for example, we may consider it sensible to postpone any changes to the code in the light of the findings of such research. We also need to take into account the increasing pressure on the parliamentary timetable as we draw closer to dissolution. Of course, we would need to seek the agreement of the Parliament if we wanted to proceed with any proposed changes to the rules in this session.

Before we discuss the papers, perhaps it would be useful to consider whether we wish to proceed with a bid for external research. If so, we should consider what the objectives of the research would be. I draw the attention of members to paper ST/02/17/2 on research procedures. Do members have any views on research?

**Michael Russell (South of Scotland) (SNP):** I wonder what research would achieve. There are clear problems with the operation of the system, some of which are matters for the committee, although some are only tangential to the committee's work. The proliferation of cross-party groups is a key problem—I will return to that issue in a moment.

When I was a member of the Parliamentary Bureau, we had to approve external research. The question that must always be asked about external research is what it will achieve. What will it tell the Parliament that we do not know? I suspect that the only possibility for research is consideration of the operation of similar systems in other places. Do other Parliaments have means for members, lobbyists and other groups to interface on key issues? If such systems exist, it would be interesting to know about them, but much of the work would be desk research.

I cannot think of other areas in which we would not simply consider matters according to the basic founding principles of the Parliament. We do not require research into such areas, although the work of the Procedures Committee on the consultative steering group's principles should inform any decisions that are made.

**The Convener:** It is a pity that Paul Martin's train has been delayed and that he is late. At our previous meeting, he suggested that we should undertake an evaluation exercise, which is why a paper has been produced. If we are going to

consider changing the rules on the operation of cross-party groups, we need an objective assessment of how effective they have been so that we can evaluate their contribution and whether they have met their aims and purposes. Members will correct me if I am wrongly paraphrasing what was said.

**Mr Kenneth Macintosh (Eastwood) (Lab):** You are right—that was the suggestion. I understand what Mike Russell said, but the focus of our discussions was on assessing the external impact and perception of the groups and whether we need external research to do that. As MSPs, we can assess what we think about the groups, but it is crucial that we work out how effective they are and how they are seen outside the Parliament. Cross-party groups started as bodies only for MSPs, but they have undoubtedly taken on another dimension and are highly valued by some members of the wider community. However, as Paul Martin pointed out, they are not accessible to more geographically remote communities—hence the need for research.

**Kay Ullrich (West of Scotland) (SNP):** In general, committee members have anecdotal evidence that some cross-party groups are not running as they should be, that there are too many groups and that too often separate groups deal with similar subjects. There is no point in our proceeding unless we know how effective each group is. We must have a way of evaluating them.

As I said at our last meeting, when the Parliament was established, we were all bright eyed and bushy tailed and signed up to many groups. However, few MSPs who are listed as members of groups regularly attend meetings of those groups. One of my major concerns is that groups are being run without the input of MSPs. If only one member of one party appears regularly at a group's meetings, I would say that that group had ceased to be cross-party.

**The Convener:** If only one MSP turns up to the meeting of the cross-party group, the meeting should not proceed, because there is a minimum requirement.

**Kay Ullrich:** I know that, but I think that the reality is different. We need to find out about that.

**The Convener:** That is the point that members were getting at at our last meeting.

**Michael Russell:** I do not disagree that we should have evaluation, but I am sceptical about the fashion for external evaluation. The cross-party groups have a wider purpose but, as they are meant to serve the Parliament, they should be judged by the parliamentary criteria that were set down for them. With external evaluation, the groups might be judged against a range of criteria that are not core to what the groups need to

achieve. I am not against external research, but I express caution about spending money on it. The old definition of a consultant is somebody who borrows your watch to tell you the time. I fear that that happens too often. If the clerks were to examine the cross-party groups on the committee's behalf on the basis of the general rules under which the groups were set up, that would provide us with as accurate a view as it would be possible to have.

**Lord James Douglas-Hamilton (Lothians) (Con):** Like Paul Martin, I am in favour of research because it points the way to solutions. I take Mike Russell's point that it would be invaluable to have comparative research with other Parliaments with a view to ensuring the effectiveness of this Parliament's cross-party groups. The research could also consider whether the number of subject matters and the number of groups should be limited. The rules on the operational quorum could also be looked at.

On the issue of timing, any research that was to be worth while would in practice be for the consideration of the Standards Committee in the Parliament that will be elected after 1 May. However, it would be helpful if we now made a decision in principle to start that work.

**Mr Macintosh:** I welcome Lord James's comments. Obviously, we would need to draw up a more detailed brief for the research, but one thing that should be considered is what the groups feel that they have achieved. Key to that issue is how or why the groups are valued by non-MSPs. In particular, we should look at how useful the groups have been as a platform for discussion or forum for debate, or as a method of accessing the Parliament. Such achievements may be less tangible than the particular agendas that the groups have pushed.

**The Convener:** To sum up, there is a feeling that we should proceed down the route of commissioning research.

I want to check that the clerks have a clear steer that they should produce a paper for our meeting in two weeks' time, which will be our last meeting this year. That paper should have clear, definite proposals that we can agree to, so that we can get the process moving. The idea is that, although we will commission the research during this session of Parliament, the findings will be reported to the Standards Committee in the next session of Parliament. Thank you for that.

Our next item of business concerns the appointment of the Scottish parliamentary standards commissioner—I beg your pardon. What am I talking about? We have not gone through the paper. I had thought that our meeting was rather short. I apologise for that rather embarrassing slip-up.

I throw open the meeting for comments from the floor about the detail of the papers.

**Mr Macintosh:** I want to clarify the purpose of the two papers that we have been given. The initial two-page document invites us to consider a new set of purposes and objectives for CPGs. That is followed by a paper that highlights a few issues that still need to be pursued or clarified. We seem to be drawing our conclusions before we have done the work. Is that right?

10:15

**The Convener:** That is what led me to make what I assume was a technical slip. I take the view that agreeing to commission external research on the whole process somewhat circumvents the need to go through the detail of the documents. The clerks produced the documents for our information; the papers would have been more relevant if we had decided not to go down the route of external research.

**Lord James Douglas-Hamilton:** I suggest that the decision about whether we commission research should be primarily a decision for the committee. I note that the documents state that the conveners liaison group will decide on that. Mike Russell will remember that, in the past, the Parliamentary Bureau took such decisions. It would be interesting to find out the constitutional position. Does the CLG clear the commissioning of research?

**Michael Russell:** Although Lord James Douglas-Hamilton and I fought a noble rearguard action on that issue, we lost.

**Lord James Douglas-Hamilton:** I am glad to be brought up to date on that point. In that case, I cannot imagine that the CLG would register any objections of principle or detail to our request. We should put the request to the CLG as strongly as possible.

**The Convener:** I agree. I represent the Standards Committee on the conveners liaison group as often as I can—the CLG meetings tend to clash with Rural Development Committee meetings. I make a point of attending. I will attend the relevant CLG meeting with our proposal when we have agreed it and I will argue for it strongly. I do not think that there will be any problem at the CLG, because the Standards Committee has never previously asked it to sanction the commissioning of research. The only problem is that the budget is clearly defined and we must take our turn with all the other committees. As we have not had any research carried out before, that should not be a problem.

**Michael Russell:** I concur with your views and with those of Ken Macintosh on the papers, if the

committee is to commission research. However, an issue that is raised in the papers needs to be addressed—the activities and finances of CPGs on dissolution. It is clear that the groups cannot continue after dissolution. As money is involved, there needs to be a clear decision, which should probably be taken by the Scottish Parliamentary Corporate Body rather than by the Standards Committee. It should be recommended that CPGs be suspended on dissolution and that their funds be frozen and not reactivated until a review has taken place. It is important that there is a continuum of dissolution, freezing and review, after which the groups will get going again.

When the Parliament reconvenes in May, the existing CPGs should not simply reactivate themselves; there should be a period during which they are examined, prior to reactivation in September. That lays down a time line for the research that might take place. It will help us to understand the process. I suggest that the review should deal with the number of groups and the range of subject coverage. There should also be standardised administration costs, because some of the figures are bizarre.

**The Convener:** I hear what Mike Russell says. I want to ensure that everyone understands the point. Rule 14 of section 8.3 of the “Code of Conduct for Members of the Scottish Parliament” states:

“Cross-Party Groups will cease to be recognised 90 calendar days after the first meeting of the new Parliament after a general Scottish Parliamentary election, whether ordinary or extraordinary, unless a fresh registration is made within that period.”

The CPGs have to re-register with the new Standards Committee.

**Michael Russell:** There is a further point. There might be a request for registration at the first meeting of the new Standards Committee, during the first 90 days. Although no committee can bind its successor, there should be a recommendation that no registrations be actioned until the review has taken place, otherwise there would be a waste of resources.

**Mr Macintosh:** I point out that cross-party groups use hardly any resources. I would be reluctant to suggest such a course of action. We will not necessarily be members of the Standards Committee after the election—we might not be here. It is difficult for us to decide what course of action the new Standards Committee should follow—it might well not make a review of cross-party groups its number 1 priority. However, Mike Russell's suggestion would mean that there would be no cross-party groups until the review took place.

Rather than starting from the premise that the cross-party groups are a problem—there have been difficulties with their functioning, which we will sort out—we should see them as an asset to the Parliament. In the main, MSPs and non-MSPs have welcomed them. Although there are several matters to tidy up, we should certainly not impose decisions on the existence of cross-party groups until we have done some more work or until we are at least clear about the direction in which we are headed.

**The Convener:** For the benefit of Susan Deacon and Paul Martin, who have arrived late, I will describe the context of the discussion. We have already agreed to proceed with commissioning research as soon as we can. The idea is for the research to be reported to the new Standards Committee in the next session of Parliament.

**Kay Ullrich:** Considering the convener's proposed time frame, I do not think that it would be any great hardship for cross-party groups not to start at the beginning of May, because the Parliament will be in recess quite soon after that. Logically and logistically, the time frame makes sense. It also allows time for the research to be completed.

As I have said before, one of the problems at the beginning of this session arose from the fact that we were all bright eyed and bushy tailed—everyone had groups that they were interested in and wanted to join. People then realised that they just did not have the time to commit. Holding the bus until the research has been completed makes sense to me.

**Lord James Douglas-Hamilton:** I am glad that flexibility is recommended. For example, it is generally accepted that most groups will not have a significant amount of cash at dissolution. However, it would make eminent sense if the funds could be suspended in an account until re-registration or be given back proportionately to the donors. That could perhaps be written into the guidance.

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** I am grateful for the convener's clarification about the context of the discussion. I apologise for arriving slightly late, because I am conscious that the concern that I am about to raise might well have been addressed in the first 15 minutes of the meeting.

I agree with the broad thrust of what I have heard from colleagues and I certainly agree with the decision to commission external research. However, I am worried about the practical implications of the proposed time frame. That is partly for the reason that Ken Macintosh articulated—we cannot bind an incoming

Standards Committee nor predict what priority it will give to that issue—and partly because, in reality, MSPs will turn their minds to what to do about cross-party groups quite early on.

I take Kay Ullrich's point, although we will not try to guard against what she called the bright-eyed and bushy-tailed approach, where well-intentioned people start and sign up for dozens of cross-party groups early on. I do not think that we would want to dampen that enthusiasm too much, nor would it be possible to do so, even if we wanted to.

I wonder whether there is a halfway house between protecting the integrity and thoroughness of external research and in-depth review and this committee setting out some form of guidance with a small "g". In other words, I hope that we can give helpful guidance and observations based on our experience to date that would be available immediately following the next election for new members to at least consider. We could not bind new members to that guidance in any way, but it should be available to them in that early period when they are starting to think about what groups they want to form and on what basis.

I realise that a fine balance must be struck on that. Although the time line that has been set out looks neat, tidy and laudable on paper, in practice, it might—to continue Kay Ullrich's analogy—result not in holding the bus but missing it. Events will take their course and members will do what they want to do. I look for the convener's assistance on the matter. Could a balance be struck?

**The Convener:** I too am a little perplexed. I can see where members are coming from. The current rules in the code of conduct are that all cross-party groups will cease to be recognised 90 days after the first meeting of the Parliament in a new session. In other words, they will fall. The only way to restart them—to kick start them, or whatever we call it—or to form new groups will be for applications to be brought to the clerks of the new Standards Committee in the new session. As has been said, we cannot bind a future Standards Committee. I am bit perplexed about a course of action on which we do not seem to have a locus at the moment.

**Mr Macintosh:** I am sympathetic to what Mike Russell and Kay Ullrich said. Ideally, we would do our work in this session so that the Parliament in the next session could learn from our experience and can start off with a clean sheet and with the rules nicely set out, rather than having to start with inherited rules and then tighten them up later. I am doubtful that that is likely to happen.

The cross-party groups are good. There is a need for such a structure or organisation to be set up as part of the Parliament. Most of the current MSPs who come back will have learnt their own



lessons. I am a member of many cross-party groups, but I will be ditching a few. I will not sign up to so many.

**The Convener:** We are still in public.

**Mr Macintosh:** I will not be so enthusiastic. My eyes have dimmed in the past four years.

**Michael Russell:** The convener gave us half the answer in what he said about the rules on re-registration and new registration. The other half is something that we did not consider when we talked about commissioning research: the time frame for that research. If the research can dovetail with the re-registration period, that will solve the problem, because the new Standards Committee will know about an evaluation of the past groups and will use that to inform itself. If the research could work in that way, it could square the circle.

**The Convener:** The clerk has pointed out that we have a difficulty. The paper on commissioning research says:

"However, experience has revealed that it normally takes a minimum of eight months between a committee requesting research"—

that is, making a request to the conveners liaison group—

"and publication of that research."

**Michael Russell:** That is publication, not receipt, of the research. The research is not an enormous task. If it were commissioned before the end of January and done in February, March and thereafter, it should be available to the committee certainly in June, if not in May. If that were set as an optimum time scale, it would work quite well.

**The Convener:** Eight months is an average. Remember that big subject committees are undertaking major investigations. If we were to say in the paper that we submitted to the CLG that we want the research to be completed by the end of April, that would be helpful.

**Mr Macintosh:** We do not need to decide today. We have a couple of months and can come back to what to do about the new cross-party groups. It would be difficult for research to be done without the cross-party groups meeting.

**Michael Russell:** That is why the research should be done in January or February, before the cross-party groups come to an end. If it were to be done beyond then, we would never get the research because the cross-party groups would not exist.

**Kay Ullrich:** We must make a decision today to facilitate—

**Mr Macintosh:** We do not have to make a decision on—

**The Convener:** Hang on.

**Kay Ullrich:** I disagree with Ken Macintosh. If we are to have proper research within the time frame that we want, it is essential that we reach a decision today.

**The Convener:** We have made that decision.

**Kay Ullrich:** Yes, but I am talking about the—

**Mr Macintosh:** I will clarify. I was saying that we did not need to decide on Mike Russell's suggestion not to allow cross-party groups to meet in the new session until after the review. That is a different decision.

**Michael Russell:** The convener has clarified that matter.

**The Convener:** Are we all happy about the process?

10:30

**Susan Deacon:** If it is appropriate, I propose formally that we move on this issue. As has been pointed out, we have decided to commission external research. However, I propose that from this meeting the clerk should be empowered, entrusted or delegated—whichever is the most appropriate word—to begin the process within the contained time frame that was set out a moment ago, if she feels able to make progress on that basis.

**The Convener:** The formal proposal has to be written up by the clerks, who are doing so right now. I believe that the proposal will have to be brought to the committee at its next meeting in two weeks' time. That will be the starting gun. Are members happy?

**Members indicated agreement.**

**The Convener:** Do members have any other points?

**Mr Macintosh:** I notice that the papers are really for discussion only if we are not going ahead with research. As a result, I take it that we are not going to agree them as they stand.

**The Convener:** No. We have to do what we have agreed to do. It seems strange to commission research if we then discuss the papers, which effectively are for members' information only.

**Mr Macintosh:** Indeed, yes. I take it that we will return to subjects such as financial interests another time.

However, I think that the papers miss out a number of issues that we discussed at our previous meeting, one of which was how we maintain on-going cross-party support for a group. Quite often, groups start up with genuine cross-

party support, but that support fades away and we end up with pretty well only one MSP pushing the thing along. We need to address that issue.

The activities of the groups are probably of primary importance to me. For example, it would be a good idea if the groups were able to promote bills. Groups cannot do so with their current status, but they could if they were better-organised, better-resourced and more formal organisations. Such an approach would have its advantages. Certainly, some groups indulge in activities that are dressed up in such a way as to make outsiders think that they are committees of the Parliament. I am seriously concerned about that matter. Either we push the groups towards being well-run, more formal organisations or we make it clear that there is a limit on the activities that they can indulge in.

I have one further point about the cross-party group on cancer, but I will stop there.

**The Convener:** Now that we have decided to appoint an external researcher, I am sure that one of the first things that the committee clerks will do is make available to him the *Official Report* of this meeting, which will record what you have just said, to ensure that he knows the committee's thinking on this matter. As a result, he will not be starting his research from scratch.

**Paul Martin (Glasgow Springburn) (Lab):** I was about to make that very point, convener. Perhaps the researcher could interview Ken Macintosh or any other member who wishes to raise issues that will be covered in the report. In any case, the researcher will definitely want to speak to most of the conveners of cross-party groups and even attend some group meetings. It would probably be helpful if the committee could meet him or her at a later stage to discuss the terms of the research.

I am obviously concerned about the time that the review will take, but I would rather we did not rush it for the sake of ensuring that research is in place for the next session. I want us to have a quality piece of research that will enable the new Standards Committee to define its expectations of cross-party groups and their work. I know that I might be contradicting myself but, although I am concerned that it will take as long as eight months to publish the research, we should ensure that the work is done for the right reasons and covers every detail of the cross-party groups. The research will be complex; I do not think that it will be as simple as it looks to delve into the issues.

**The Convener:** At the risk of going round the houses, I should say that the clerks will introduce a fully written-out proposal for us to examine at our next meeting. That would be the appropriate time to go through the points. Is that agreed?

**Members indicated agreement.**

**The Convener:** Can we move on to the next agenda item?

**Susan Deacon:** I have a separate point to make. I want to press my earlier suggestion that, notwithstanding the formal process of research and review that has been agreed, we might still consider leaving behind something of the committee's views about the issue beyond simply the *Official Report*.

One assumes that incoming members next May will be presented with a range of information that the parliamentary authorities will compile in the form of bona fide induction material and information. One assumes also that there will be a couple of pages or a wee purple booklet that covers and defines the rules on cross-party groups. It strikes me that it would be appropriate and achievable to weave into that some of the points of consensus that have arisen in the committee and that have led us to initiate the review process.

We cannot prejudge the review's outcomes, but there have been certain points of consensus and agreed areas of concern that it would be appropriate to log as part of the background information. We can point out that the Standards Committee has examined the matter. We can also point out that a large number of groups was formed and that it proved difficult for that level of activity to be sustained in Parliament.

We could recommend that members might wish to consider joining either informal groups or groups that have achievable aims. We could say that the outgoing Standards Committee had been concerned to ensure that the groups were as effective and active as possible. We should note our one overriding concern, which is to ensure that members and the wider public properly understand the status of cross-party groups. That would be a restatement of existing rules rather than a prejudgment of the review and it would express the view that cross-party groups are not parliamentary committees.

I do not think that such documents can be written by committee, but I wonder whether, as a committee, we support the general principle of trying to capture those themes in the guidance and information with which new members will be presented. It would be a pity if we did not capture them, because we have amassed some understanding of the issue, which new incumbents will not have, although I respect absolutely their right to reach a different view from ours.

**The Convener:** I have just been informed that the clerking staff are working on the members' interests order, so what Susan Deacon has suggested could go hand in hand with that in the

induction pack for new members in May. Do members agree that that is appropriate and that we should ask the clerks to include Susan Deacon's suggestions in their work on the members' interests order?

**Members** *indicated agreement.*

**The Convener:** We now come to agenda item 3. As agreed at the beginning of the meeting, we will now move into private session.

10:39

*Meeting continued in private until 11:18.*



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