

STANDARDS COMMITTEE

Tuesday 14 December 2004

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2004.

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

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Tuesday 14 December 2004

	Col.
INTERESTS	353
ITEMS IN PRIVATE.....	353
CROSS-PARTY GROUPS.....	354
MEMBERS' INTERESTS.....	362

STANDARDS COMMITTEE

13th Meeting 2004, Session 2

CONVENER

*Brian Adam (Aberdeen North) (SNP)

DEPUTY CONVENER

*Mr Kenneth Macintosh (Eastwood) (Lab)

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)

*Linda Fabiani (Central Scotland) (SNP)

*Alex Fergusson (Galloway and Upper Nithsdale) (Con)

*Donald Gorrie (Central Scotland) (LD)

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE SUBSTITUTES

Lord James Douglas-Hamilton (Lothians) (Con)

Marilyn Livingstone (Kirkcaldy) (Lab)

Alasdair Morgan (South of Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Mark Richards (Scottish Parliament Directorate of Legal Services)

Catherine Scott (Scottish Parliament Directorate of Legal Services)

John Scott (Ayr) (Con)

Mr Andrew Welsh (Angus) (SNP)

CLERK TO THE COMMITTEE

Jennifer Smart

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

Committee Room 5

Scottish Parliament

Standards Committee

Tuesday 14 December 2004

[THE CONVENER *opened the meeting at 10:45*]

Interests

The Convener (Brian Adam): Good morning. I welcome everyone to the 13th meeting this year of the Standards Committee and invite members to switch off their mobile phones. I have received no apologies.

I welcome Linda Fabiani to her first Standards Committee meeting and invite her to declare any interests that she might have.

Linda Fabiani (Central Scotland) (SNP): I am not aware of any interests that I should declare.

The Convener: Either you have or you do not have interests. Couching things in such careful language will not get you anywhere, especially on this committee. [*Laughter.*]

Linda Fabiani: I do not have any interests to declare.

The Convener: Thank you very much.

Items in Private

10:45

The Convener: The next item on the agenda is to decide whether to take items 7 and 8 in private. Item 7 relates to a complaint referred to the committee at stage 1 of the complaints process and the code of conduct and the Scottish Parliamentary Standards Commissioner Act 2002 specify that stage 1 of a complaint should be conducted in private. Do members agree to take that item in private?

Members indicated agreement.

The Convener: For item 8, the committee will consider legal advice that we have received. As a result, it might be appropriate for that discussion to take place in private. Are members agreed?

Members indicated agreement.

Cross-party Groups

10:46

The Convener: The next item on the agenda is consideration of three applications to establish cross-party groups. I understand that, for family reasons, Mr Davidson is not able to join us to speak to the application for the cross-party group on diabetes. He has been replaced by Mr John Scott. [*Interruption.*] Oh, sorry. I got that one wrong. John Scott is replacing Nora Radcliffe. Karen Whitefield will replace David Davidson. Karen, do you want to make any further comments about the application?

Karen Whitefield (Airdrie and Shotts) (Lab): It is news to me that I am a stand-in for Mr Davidson. However, I will say that the cross-party group is much needed and all group members believe that it will make a worthwhile contribution to the debate on diabetes in Scotland.

The Convener: As far as I can see, the group complies with the rules on cross-party groups. However, I note that the proposed group contains some non-MSP representation, including a commercial organisation and a Government relations agency. It might be useful to know whether secretariat facilities might be provided by either of those organisations; if so, I should mention that any related costs should appear in the appropriate paperwork in due course.

Karen Whitefield: I understand that those facilities will be provided by Alan McGinley, the policy officer of Diabetes UK Scotland. That information is set out on the application.

The Convener: In that case, I should point out that the costs of the time that he spends on that activity ought to appear in the paperwork in the same way that, for example, ASH Scotland sets out the costs of providing secretariat facilities to the cross-party group on tobacco control. Perhaps all cross-party groups should have that drawn to their attention to make things absolutely clear.

Given that the cross-party group meets with the specified criteria, do members agree to approve the application?

Members indicated agreement.

The Convener: We will formally write to Mr Davidson to inform him of our decision.

I will get things right this time. We are also considering an application for a cross-party group on food, whose proposed convener is Nora Radcliffe. Nora Radcliffe cannot attend the meeting, but John Scott, one of the proposed conveners, is present. Mr Scott, I draw to your attention the point that I made about the

secretariat, which you might wish to consider. Do you want to add anything?

John Scott (Ayr) (Con): No, except to say that the group is worth while and will be considering issues such as healthy eating, public service food procurement and food tourism. We are hoping to explore a range of issues. I know from our first meeting that there is a lot of interest in the group from within and outwith the Parliament.

The Convener: No members have questions to ask. Given that the group complies with the regulations, I take it that the committee agrees to accept the application.

Members indicated agreement.

The Convener: Fine. We will write to Nora Radcliffe to inform her of the committee's decision.

John Scott: Thank you.

The Convener: The final application under item 3 is to establish a cross-party group on tartan day. We have with us Andrew Welsh, who is the proposed convener of the group.

Mr Andrew Welsh (Angus) (SNP): The group is based around the celebration of the declaration of Arbroath and is to provide a platform for parliamentarians to discuss how to develop the idea. We do not seek to duplicate existing parliamentary activity; the idea is to supplement, augment and support parliamentary events. We seek not to replace such events, but to extend them to the rest of Scotland. Members of every party and the independent group are interested and a wide geographic spread of people has expressed support; we hope to include all Scotland.

The group seeks to be a catalyst to encourage activity based on the 6 April re-enactment of the signing of the declaration of Arbroath. In some ways, we present Angus Council as a model, as it is planning a series of events. We hope to encourage other local authorities and groups to join in. We say in our application that we seek to

"encourage individual and international friendship and goodwill through Tartan Day celebrations both in Scotland and worldwide."

Karen Whitefield: Thank you for coming along, Mr Welsh. I have a number of questions. I am slightly concerned that the group might duplicate some of the cross-party work that goes on around tartan day, which the Presiding Officer leads. I am interested to know what discussions you have had with the Presiding Officer's office about how you could work together and not do some of the work that he will do in leading a cross-party delegation to tartan day celebrations annually.

I am also interested in how you engaged with members of the Parliament in making up your

group. I have no recollection of having received notification of the group. I note that on 18 June the decision was made about how membership needs to be constituted according to the party splits. One of the points is that all four major parties need to be represented. Your representative from the Labour Party is Mr Frank McAveety, who was a minister on 18 June. It strikes me that he would not have been in a position to be a member of a cross-party group. He might well be now, but he was not at the time of your inaugural meeting.

Mr Welsh: I will have to check that with Frank McAveety.

We have no intention of duplicating work; as I said, we hope to augment and supplement other parliamentary work. Until the group is formed, we can hardly open up discussions with the Presiding Officer or his deputies. However, you should take it as read that we do not intend to interfere or to get in the way; we intend to augment and supplement work and to act at a sub-parliamentary level to encourage events. In an ideal world, we would see tartan day events being encouraged locally, in the same way as we have Burns suppers. We already have town and village twinning. At all levels, it is possible to encourage tartan day thinking, international good will and ties around the event.

We had, first, to submit an application. We deliberately have members from all parties on the group and I hope that the group will be augmented. All MSPs are welcome. We want to be as open as possible and I hope that MSPs will encourage as much activity around tartan day as possible in the areas that they represent. That is not to take anything away from the national event—nor should it. I hope that such activities augment and supplement the national event.

Angus Council has encouraged a panoply of events around the re-enactment at Arbroath on 6 April, from ceilidhs and rock-and-roll reminiscing to tartan day workshops and brainstorming sessions that explore local possibilities for contacts and interaction within Scotland and between Scotland and other countries. We hope, at the sub-parliamentary level, to encourage as much activity as possible involving art, culture, charity events and heritage. There is a great possibility for the creation of international friendship and growth through tartan day celebrations that supplement whatever the Parliament does, although they will never replace it in any shape or form. That applies to areas that the Parliament probably could not cover, so I see the two as complementary, never in competition.

The Convener: As the group qualifies under the current regulations, I take it that the committee is content to agree to the group.

Members indicated agreement.

The Convener: We will write to you formally in due course, Mr Welsh.

Mr Welsh: I hope to report progress.

The Convener: We look for an annual report from each of the cross-party groups.

Mr Welsh: I will do my best to make it substantial.

The Convener: Item 4 is further consideration of cross-party groups. I understand that Dr Turner is not going to be present this morning—as you can see, she is not present—but that she has nothing to add to the letter that she sent to us, which members have before them. She has made efforts to recruit a Labour member to the proposed cross-party group on the loss of consultant-led services in Scotland and we agreed at our meeting in June to give her time to do that. However, she has been unsuccessful in that and seeks a waiver with regard to it. Is the committee content to grant her proposed group a waiver?

Donald Gorrie (Central Scotland) (LD): I would support that. If the cross-party group has made every effort to attract a member from each of the parties, as is stated in the rules, and if, for whatever perfectly valid reason, no member of a certain party wishes to join, that should not block a reasonable cross-party effort across the other parties. Without going into the rights and wrongs of the argument, we should grant the group a waiver.

Mr Kenneth Macintosh (Eastwood) (Lab): It is unfortunate that there is no Labour member on the proposed group, as the group will be the weaker for it. Donald Gorrie has argued before—and I agree with him—that the groups are not all-party groups but cross-party groups. I do not think that any one party should be able to prevent the formation of groups if members choose to form them. The group will be the weaker for not having a Labour member, but there we are.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I commend Mr Macintosh for his magnanimity. He is quite right. The fact that a precedent has already been set rather dictates the way in which the committee should go. I would support the application.

The Convener: Is that the view of the committee?

Members indicated agreement.

The Convener: Today, we have discussed four cross-party groups. The clerks have received a letter, which all committee members have seen, from Margo MacDonald on behalf of the group of independent MSPs. The point that Margo MacDonald raises is substantive and we ought to

consider it. I suggest that we do not do so today but include it in our work programme for early in the new year. Are members content that we do that and that I write formally to Mrs MacDonald on behalf of the committee to tell her that that is what we plan to do?

Alex Fergusson: I am sorry—we are agreed to what, convener?

11:00

The Convener: Mrs MacDonald wrote to us on behalf of the independents to ask us to look again at the rules on the setting up of cross-party groups and on their membership. She asked us to do so in light of changes that have taken place since the issue was last looked at, which was at the beginning of the session. Since then, the independents have become a formally recognised group with a member on the Parliamentary Bureau. The bureau started out with four members and it now has seven members. It is perfectly legitimate, therefore, for us to look again at the requirements for the membership of cross-party groups. We should bear in mind the point that the deputy convener made that a group is not necessarily an all-party arrangement. Circumstances have changed and we should look again at the issue in the light of those changes. Are members content with that suggestion?

Members indicated agreement.

The Convener: Item 5 is also about cross-party groups. Clearly, it is within the rules that cross-party groups can make “reasonable use” of the Parliament information technology facilities. We have been asked to interpret the meaning of “reasonable use” in relation to requests for links to be made from the Parliament website to external websites.

To date, most of the requests that have been made have been for one link to be added and those requests have been actioned as requested. The paper gives advice on the practicalities of adding links and we are asked to decide what the Parliament’s policy should be in respect of more than one link being added, who should make the request and who should be responsible for the maintenance of the links. Committee members have a copy of the paper in front of them. Does any member have a view on the subject?

Mr Macintosh: I am sure that the request for more links to be added is perfectly innocuous, but it has raised a number of questions in my mind. The paper does not say which group made the request or what the links are for. Although we might not need to know that information, I wonder why one group might need 11 links when no other group has more than one link—if any at all.

I am going to show my ignorance of IT matters but I am slightly concerned about whether that number of links might create pressure on our IT system. Sometimes, when I log on to a website, it can slow down because too much information is contained in one page. It would be interesting to know what, if any, effect there would be on the Parliament website if all the links were to be made—indeed, what is the point of having them all? Although I have several questions on the issue, I am not against the idea of links in themselves. The point about sharing information is a good one.

The Convener: Are you suggesting that some of the Parliament IT people should come before the committee to explain how they feel and answer our technical questions?

Mr Macintosh: I would like an answer to my question on the impact of 11 links being made from a cross-party group web page.

Alex Fergusson: I would like to know the security advice on having links to other websites.

The Convener: Both questions are perfectly legitimate. Indeed, perhaps I should have anticipated them. *Mea culpa*—I could have asked the clerks to invite someone from the IT team to be at committee today. If that is the general wish of the committee, perhaps we should consider doing so, as we do not have to dispose of the item today. Let us get our questions on the record, so that if we decide to invite one of the Parliament's IT team to come and explain the technicalities, they will have our questions in advance.

Alex Fergusson: My knowledge of IT is limited, but I have always been told that a website is as good as its links. That said, the Parliament website may be in a different category. I have some slight concerns about the security implications of agreeing to the request. Before we agree to it, I would like to be reassured on the issue.

Linda Fabiani: I may be coming at the matter from a different angle, as I have not been involved in discussions before. However, for me, the paper threw up a lot of questions and thoughts for the future. For example, I wonder who vets what links are being made. I am not saying for a minute that I do not trust any of our colleagues, but does the entire cross-party group, including representatives from all parties, have to agree that a link is valid, or is it just that the secretariat thinks that it is a good idea? There are an awful lot of questions that have yet to be teased out. If one cross-party group has 11 links, will the next cross-party group then want 12? Where does it end? We could end up with links from links. That way, we are not entirely sure where the Parliament website is capable of being taken.

The Convener: I am sure that that is why the directorate of access and information sought a disclaimer on all cross-party group links, saying that the Parliament was not responsible for anything beyond what was on its site.

Donald Gorrie: On the same point, it is all very well to have a disclaimer, but the public often do not recognise the difference between cross-party groups and committees of the Parliament. Both are good things and have their own role to play. What the public perceive is often as important as the fact, so if there is a link to what members of the public would see as an official Parliament website that is dodgy in some way, that must be a concern of ours. I would like the experts to explain to us that aspect of the issue and to tell us whether there is any way in which we can ensure that we are not mired by somebody else's problems.

Secondly, there is the question of keeping links up to date, which is a problem. To give a trivial example, yesterday I was with some colleagues at a cross-party event at Balerno High School, where Mary Mulligan was introduced as the Deputy Minister for Communities and had to say that she no longer held that position. The headmaster was, quite correctly, going by her website. That was not a big deal, but there could be bigger issues about inaccuracies and out-of-date information. I would like some explanation of whether there is any way, without being wickedly illiberal and controlling people—

Bill Butler (Glasgow Anniesland) (Lab): Heaven forfend!

Donald Gorrie: Indeed. I wonder whether there is some way by which we can ensure that the content of sites is not unacceptable and that it is up to date. What is in the disclaimer is fine, but the public will not read the disclaimer.

Mr Macintosh: I endorse that point. Linda Fabiani and Donald Gorrie both mentioned the fact that the Parliament's website effectively endorses anything that is included in it. Whether the imprimatur of the Parliament gives a website a seal of approval is a difficult issue for cross-party groups, because that is where the policy boundary is. I do not think that we should ask the clerks to police the issue, because that would not be very fair and I know that they would not welcome the role. However, there are not so many links—there is one page with 11 links—that they could not be brought before the committee anyway.

There is also a danger that the links could be used to promote specific interests within cross-party groups. For example, it is already the case with many groups that the secretariat of the group is in a privileged position and could easily put in a link to its own website. The danger with cross-

party groups generally is that they can often be owned by specific interest groups or lobbies, with the best of intentions, and they can appear to become branches of those well-meaning organisations. With a link to a website, there is an even greater danger of that perception. I wonder whether the clerks could draw up a paper exploring some of those issues, on the policy side as well as on the practical side, covering the impact on the Parliament's IT system.

The Convener: Are members content with the suggestion that we should have some more background material and that the specific questions that have not been asked should be put to our IT colleagues, who should be invited to attend our next meeting?

Members indicated agreement.

The Convener: If there are any further questions, members should let the clerks know, so that the IT people have as much notice as possible. Are members content with that?

Members indicated agreement.

The Convener: I should have thought of that myself.

Members' Interests

11:09

The Convener: Agenda item 6 is on replacing the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999. In the last session, the former Standards Committee reviewed the members' interests order and its operation and practice. The committee developed draft legislation to replace the members' interest order and, on 3 October 2002, the committee had a proposal to introduce a committee bill. That was debated and approved by the Parliament. However, due to pressure on the parliamentary timetable in the final months of the first session, it was not possible to introduce the bill, although the committee published a draft bill in March 2003.

When the second parliamentary session commenced in 2003, we agreed to review the provisions of the draft bill. The purpose of the attached report that you all have before you is to make a proposal to the Parliament for a committee bill.

The report to the Parliament needs to be sufficiently detailed to enable the subsequent drafting of a bill that reflects the policy issues that the committee has agreed. The committee has already agreed to delegate authority to me to deal with minor changes, in consultation with the non-Executive bills unit. Once the bill has been drafted, it will be presented to the committee with the accompanying explanatory notes for approval before the formal process of introduction to the Parliament.

I am quite happy to go through the report in detail now, but I remind members that today is not our last chance to influence what will be in the bill. We should try to get the detail right, however, and to that end we have given it a fair amount of thought.

I have no particular concerns about the report but I am quite happy to go through it page by page and give people the opportunity to say whether there are any areas that they think have been omitted. The deputy convener has indicated the existence of one such area to me.

Shall we go through the document page by page?

Members indicated agreement.

The Convener: Are there any questions on page 1? Page 2? Page 3?

Donald Gorrie: The middle sentence of paragraph 15 on page 3 says:

"It will be for each Member to ask themselves, not whether they would or might be influenced by the interest

but, whether a fair minded and informed observer would conclude that their impartiality would be or appear to be prejudiced by the interest."

However, the people who get excited on this subject are usually neither fair minded nor informed, but cause a great stushie. I think that some of the elements in the report are totally over the top and have something of the hair shirt about them. Nevertheless, I recognise that, while we all think that we are honourable people, people outwith Parliament might not think that we are and might draw the wrong inference from what we do. I do not know whether the sentence that I read out could be worded in a better way. I have no better wording in mind.

The Convener: Where do you believe that it is weak? I agree that it still relies on the member to make the judgment, but the attempt is to ensure that, in doing so, they make an objective rather than a subjective judgment. We want the member to place themselves in the shoes of someone other than themselves. That might be difficult, but I am not sure what alternative form of words might achieve the same objective.

Donald Gorrie: I do not have a positive suggestion. We could say that we do not need to pander to the prejudices of people who have strong prejudices. However, it might not be possible to say that in a parliamentary document.

The Convener: Perhaps a sentence that recognises that we will never be able to satisfy everybody about our objectivity might prove helpful. However, I suspect that that would not satisfy those about whom we are talking in any case.

11:15

Mr Macintosh: The issue is difficult and it has been debated several times. Burns wrote:

"O wad some Pow'r the giftie gie us
To see ourself as others see us!"

If the giftie cannot do it, I am not sure that we can either.

To reassure Donald Gorrie, I inform him that I received correspondence from the equivalent of the standards commissioner in British Columbia in Canada, which introduced exactly the same test as we intend to introduce, although it is worded completely differently. She sent me information on a lot of cases that were deliberated on. The issue is the difference between a member having an interest and people's perception that a member might have an interest. The interpretation of that test has created difficulties in British Columbia.

It is reassuring that other countries are going down the same path, but the main point to draw from the experience in British Columbia is that it is

the application of the members' interests bill that will give members and the public the confidence that we are looking for. The issue is difficult because we are calling the test objective when it is clearly not very objective at all, but personalised. However, it is a test and its worth will be proved only in its application. We must be consistent with the Ethical Standards in Public Life etc (Scotland) Act 2000, with what happens in other legislatures and with what the Parliament has done in its first years. I share Donald Gorrie's reservations, but we are close to agreement on the issue.

Donald Gorrie: As I say, I have no constructive improvements, so I will not push the point. Ken Macintosh's comments are helpful.

The Convener: We have attempted to make the onus that will be put on members a little clearer. The test is meant to be as much about the external perception of his or her action as it is about how he or she feels about it. The wording "fair minded and informed" is deliberately chosen and it highlights the differences between people who are fair minded and informed and those who are pursuing grievances, whether or not they are well founded. I suspect that, in some circumstances, people who have grievances will never be persuaded that anybody has been objective. The committee has some experience of that.

Do members have comments on the rest of page 3 or pages 4 or 5?

Donald Gorrie: I suffer from having missed the two previous meetings because of other committee business. What is meant by

"Declaration of interests outwith Parliamentary proceedings"?

Does that mean that, if I go to a conference, I have to say that I have interests in X, Y and Z that are relevant to the conference? I do not understand the background to paragraphs 26 to 28.

The Convener: By and large, the point is that parliamentarians who are speaking at an event as parliamentarians ought to declare any interests. We did not feel that that should be subject to criminal procedures under the proposed bill, but we felt that the matter should be covered in the code of conduct. To take a topical example, if Donald Gorrie was a major shareholder in a tobacco company and went to speak at a conference on smoking, a well-informed and fair-minded observer might perceive it to be appropriate for him to declare that as an interest. We wanted to make it clear that there is a duty on members to be open and honest about their interests and that we were not saying that members can deceive people by omission or commission outwith Parliament. However, we felt that in those circumstances it was appropriate to

deal with such conduct through the code of conduct rather than through criminal procedures. Is that helpful?

Donald Gorrie: Yes, that is helpful, thank you.

Mr Macintosh: Like Donald Gorrie, I apologise for missing the previous meeting, which was because of paternity in my case. I will ask a question for my information because I do not understand the current practice. I am intrigued by the

“deletion of interests from the register.”

If a member receives a gift of any kind or if they do something, do they have to inform the Standards Committee clerks that the gift is no longer live? Is that entirely at our discretion or is there an automatic cut-off point? I would have assumed that after two, three or four years, it would automatically fall from the live register.

The Convener: Currently, there is no automatic cut-off point, nor indeed will any of the proposals permanently delete anything that has been declared as an interest. We are talking about what will appear on the website immediately; we are not suggesting in any way that the public will not be able to access information about any interest that has been declared in the past and has ceased to be live. However, we have suggested that where, in the member's view, the interest has ceased, it will be removed from the live register, but we will also impose a time limit of 12 months. The current situation is that if one declares anything, it is on the register for ever.

Linda Fabiani: Until the election.

Jennifer Smart (Clerk): The most common example is when a member has shares, which might then cease as an interest because the member has sold the shares and feels that they are no longer a relevant interest. The member might then say, “I sold those shares two years ago so the interest is no longer relevant.” Currently, we would then enter that interest as a ceased entry and it would be removed from the register after 12 months. We clear the register in May and leave a note to say that the interest has ceased as at the particular date. People are then able to look at the register, see that a member has had an interest and follow it back.

We are now proposing that the record of all interests should cease after 12 months. As it is, if a member registered an interest just before May, it would come out of the register in May, so it might show as having ceased only for a month or so, but if a member were to register it just after May, it would be on the register for a year. We are making the process fairer by extending the period to 12 months.

The Convener: The current position is that anyone who wants to follow up on ceased interests can do so because the entries are never expunged, as such; they just do not appear on the live register.

Jennifer Smart: There is an historical record.

The Convener: Yes, an historical record is kept. This is a tidying-up exercise.

Mr Macintosh: I would like clarification on Linda Fabiani's point. After an election, do we start with a blank sheet? Is there not an automatic cut-off point at Westminster? I ask for information only. The proposed new system seems overly complicated. If there is an effective cut-off point every four years, that is fine as far as I am concerned. However, I thought that at Westminster a member registered an interest and then it was deleted—

The Convener: We all have to fill in new forms following an election anyway.

Linda Fabiani: Will that procedure change under the members' interests bill? At the moment, if one is asked to go to Europe and speak at a conference, for example, one has to declare it and say that the trip cost £300 or whatever and that it was paid for by the British Council. That then goes on to the register of interests. It does not come off after a year, does it? It stays on the register for the parliamentary session.

The Convener: If the member wished the interest to be removed after a year, they could ask for that. However, that would not prevent any diligent member of the public or indeed the press from getting the information because it is still recorded. The judgment of whether it is still a live interest is left up to the member.

We are talking about how long the description that an interest had ceased would remain in the register. At the moment, it could be there for as little as a few days, but the committee's suggestion is that once the member has decided that the interest has ceased, it should be there for a year. The onus will be on the member to use the objective test that we have already discussed to make an objective judgment on whether the interest has ceased or could be seen by members of the public to have ceased. Is that clear to members?

Linda Fabiani: Like Ken Macintosh, I have not been involved in any of the discussions. I wonder whether that suggestion is too complicated. What is wrong with the description that an interest has ceased remaining in the register until the end of the four years of the parliamentary session?

The Convener: That is not what happens at the moment. Such descriptions disappear at the end of each May. The proposal would mean that more

information would be provided on the live register for a longer period of time, but it would not change the fact that individual members are responsible for deciding when an interest has ceased. If a member goes to a conference and that is paid for by whomever, it will still be up to that member—not the clerks or anyone else—to decide when that interest has ceased. All that our change will mean is that once a member has used the objective test and decided that the interest has ceased, it will remain on the live register as a ceased interest for 12 months rather than for a variable period of time, as happens at the moment. Our proposal will result in more rather than less openness. Are members content with that explanation?

Bill Butler: It was crystal clear, convener.

The Convener: I hope so.

Linda Fabiani: Well done, chaps, for working all that out.

The Convener: We have dealt with page 5. Are there comments on page 6?

Alex Fergusson: I have a fairly trivial point about page 6, which relates to paragraphs 37 and 38. Paragraph 37 states:

“To provide greater transparency the exact figure should be published at the beginning of the year”.

In brackets, it says that

“at current rates this would be £251”.

I am concerned that we get into the realms of the exact figure being £253.27. Perhaps we should just put in “to the nearest £10” or words to that effect.

The Convener: I am more than happy to be guided by the committee on that, but I would also like to be guided by the people who would have to spell that out in the legislation. Your point is well made, but I have no idea what the implications might be for the drafters. Can we have some technical advice on that, please?

Mark Richards (Scottish Parliament Directorate of Legal Services): If we have the committee’s policy, we will be able to fit the legislation to it.

Bill Butler: Perhaps the sum could be worked out to the nearest pound, as that would take away the pence; it is silly to specify the number of pence.

The Convener: The figure should be rounded up to the nearest pound.

Bill Butler: Yes.

The Convener: Mr Fergusson makes a perfectly valid point.

Alex Fergusson: It is diabolical that a gift of £251 might not be—

The Convener: The figure could be rounded up to the nearest £10, if you wish.

Alex Fergusson: That was my suggestion, although I think that the figure ought to be rounded down rather than up. In other words, if the sum is £257, it ought to be rounded down to £250.

The Convener: If the figure is rounded down, that will provide greater transparency. I was wrong; I intended that the figure should be rounded down.

Alex Fergusson: Whether the figure is rounded up or rounded down depends on which way one looks at it.

The Convener: Is it agreed that the figure should be rounded down to the nearest £10?

Members indicated agreement.

Alex Fergusson: Provided that the legislation can be drafted in such a way as to accommodate that.

The Convener: Our advice is that the drafters are quite happy to deal with that. We should add in that the figure should be rounded down to the nearest £10.

Alex Fergusson: That should be reflected in paragraph 38 as well.

The Convener: Yes. Are there any comments on page 7?

Mr Macintosh: I have a point on paragraph 38, which says:

“Members are required to register the location of any registrable heritable property and to provide an estimate of its market value, which should be updated annually on 5 April.”

I vaguely remember that we discussed the issue previously, but it seems quite onerous to require that the property’s estimated market value be updated annually. I do not want to reopen the whole discussion.

Linda Fabiani: People just would not remember to do that.

Mr Macintosh: Exactly. Also, it would be quite expensive if a full market evaluation was required.

11:30

The Convener: What is the alternative to an annual uprating? As I recall, we aim to put the onus on individual members to give details of such financial interests across the board as may be relevant to the circumstances at the time. Given the fairly volatile nature of the property market in parts of Scotland, a piece of property that is worth

£100,000 this year could well be worth £130,000 next year. In the event of a crash, the value might fall to £70,000 the year after that. If such an interest were not to be uprated but registered simply as £100,000, that might give a misleading view.

I accept that such a requirement might be burdensome on the individual member. If the test were to be objective, we might need to insist that the member obtained a market valuation that could be formally submitted. However, that was never the committee's intention. Our suggestion was that members should make a judgment and that we should rely on their honesty.

Linda Fabiani: If members are to be required to provide an annual estimate of their property's value, should the declaration on the property's presumed rental income—the paper states that the threshold is currently £4,000 per annum—be required to be updated every year as well? If a house is used more or less as a business income, the rental income could be more important than its market value. I say that as someone who was in that position for a couple of years during the first parliamentary session.

The Convener: Our draft report implies—if it does not state so explicitly, we can make it do so today—that members should not be required to give historical information on rental income even if we require that other financial aspects be reviewed annually. We had originally intended that such a requirement would also apply to rental income, but there were concerns that individuals who are not MSPs and who may have no relation to the Parliament other than that they happen to be a tenant of an MSP would have their private financial arrangements disclosed. However, I think that Linda Fabiani's suggestion would not be detrimental.

Donald Gorrie: I want to pursue that point. Given that paragraph 41 suggests that the income levels could be banded, could the capital values be banded as well, so that members would not need to update the details annually? No one would argue that members are more likely to be bribed in some way because their property is worth £135,000 instead of £120,000. The important thing is that the existence of the property be registered. Whether the property is a wee tenement flat somewhere or a house that is part of a massive estate, the value of the rental income could be covered by banding.

The Convener: Perhaps the rental income could be covered on the same basis as additional income—such as income from journalistic activities—that is earned outwith the Parliament. Such income is currently banded rather than declared specifically.

Mr Macintosh: Banding could work for any income stream. However, if there were to be no annual updating or uprating requirement, would the default position be that members would need to provide the correct figures when they register at the beginning of each parliamentary session?

The Convener: But there could be a substantial change in a four-year period—that is the point.

Mr Macintosh: There could be a substantial change. However, Donald Gorrie's point is that the interest is not the specific value of a property but the general interest in the property. It would only be prurient to want to know that somebody had a property—if only it was me—that was worth £130,000 one year, £150,000 the next year and £170,000 the following year. The interest would be the fact that the member had a property, ownership of which might have implications for some of the issues that we discuss in Parliament. What the property was worth would be updated every four years, as happens now. That is what we are getting at, is it not? It is not that we need to nose into people's affairs to find out exactly what their property is worth every year.

I do not know, but I assume that such a rule could trip people up inadvertently and that is not what we are in the business of doing. We are trying to create transparency. Sometimes we look at these issues as though people are trying to hide interests, but it is exactly the opposite. We are trying to encourage transparency and openness.

Linda Fabiani: It may be helpful if I relate my own experience from the first four years of the Parliament, when I owned a flat. I made an arbitrary estimate of what it was worth, as I had absolutely no idea. It never entered my head to change the entry in the register until I no longer owned the property and asked for it to be removed from the register. It was not my intention not to be transparent; it just did not enter my head to change the entry, as I did not think of the flat as a money-making venture.

The Convener: Are members agreed that we need to change paragraph 38 to remove the requirement for an annual updating? I do not think that we have that, currently. Are we agreed to remove the bit about the annual updating of a property's value on 5 April? The property and its estimated value would be declared at the beginning of the session and anyone who had an interest in the matter could make their own estimate of how that value might have changed in the intervening period, if they were aware of the market conditions where the property was. The nature of the interest would not be influenced by changes in the market conditions, which would be unknown to the fair-minded, objective external assessment that was being made. We would not see a need to have an annual uprating of the

rental income, but we would go along with the idea of the rental income as it appears in paragraph 41.

Linda Fabiani: Banded.

The Convener: Banded, yes. Members will recall that the detail of that will appear in the regulations. We do not need to specify that in the bill. Is that agreed?

Members *indicated agreement.*

The Convener: The committee is making a minor change to paragraph 38, removing the annual updating, but is content with the rest of that paragraph. Is that clear to those who have to make a record of this and to those who have to produce the draft bill?

Mark Richards: That is fine.

The Convener: Are there any other matters on page 7 or page 8?

Donald Gorrie: This might have occurred in my case, but it will not, as I will not be a member in the next session. Some partners might have serious objections to their financial position being scattered all over the public prints. There is a theoretical possibility that if a person wants to bribe a member, they can bribe the member's partner, but it is unduly onerous on partners to be involved. That is my view, although I would not push it to the wall.

The Convener: Which paragraph are you referring to?

Donald Gorrie: I am sorry. I refer to paragraphs 42 and 43. Paragraph 42 states:

"The MIO requires Members to register their own and their partner's shareholdings".

I do not want to trespass on current events, but somebody who is not a partner may sometimes cause more problems for a member than his or her partner.

The Convener: Are you suggesting that there should be a different form of words?

Donald Gorrie: I simply think that involving the partner is unduly invasive. However, we have probably discussed the matter previously and I have probably lost the argument.

The Convener: We took involving a partner into account when we discussed gifts and took precisely the view that you have just expressed. Do other members think that we should take out interest in shares in its broadest sense and the need to declare a partner's shareholdings?

Bill Butler: What paragraph 42 says should remain. Gifts are another matter.

Linda Fabiani: The requirement is invasive, but there is no alternative. Not having the requirement would be more likely to create trouble.

Alex Fergusson: I am worried that I did not question things when we originally discussed the matter and am therefore not sure whether I should do so now. If we do not require a partner to register a heritable property, which we do not—

Members: We do.

Alex Fergusson: Do we? I am sorry. In that case, I have got things wrong.

The Convener: There is a distinction with gifts. We were particularly concerned about how mean-spirited members were with their spouses.

Alex Fergusson: My apologies.

The Convener: Gifts with a value of more than £250 should be declared. We require a declaration for heritable property, shares and financial interests in their broadest sense.

Alex Fergusson: I am sorry. I have reread what is said and you are right. Therefore, the requirement should stay in.

Mr Macintosh: I sympathise with the position that Donald Gorrie has outlined. The requirement is rather invasive. A person might stand for election to the Parliament, but their partner might have no interest—although I hope that they would be supportive—and the requirement will be rather a burden. Things will become complicated if we go down the American line of pre-nuptial agreements and so on. Obviously, a person enjoys an interest in their partner's property and wealth. Previously, we have said that a partner exerts influence over somebody—and so they should—but transparency is the issue rather than anything else. Therefore, much as I sympathise with what Donald Gorrie says, there is no way round the matter at the moment.

The Convener: Do we wish to press the matter?

Donald Gorrie: No.

The Convener: Are there any other issues on pages 8, 9 or 10?

Donald Gorrie: One of the hardest issues is non-pecuniary interests. It excites people who are not entirely reasonably minded on the issue. As I think that I have said before, some people's support for, say, a football team is a bigger part of their life than membership of an organisation. Will they be required to say that they support Partick Thistle or whatever? If a member is president of a local youth club, are they supposed to register that, given that we might vote in support of more money for youth clubs? We should perhaps provide slightly more guidance on what we mean.

11:45

The Convener: It is quite possible for us to provide guidance. It is not necessarily appropriate to put that in the report, but it could appear in the explanatory notes. I am looking for guidance from our technical adviser on whether I am right about that.

Mark Richards: Yes, that is correct.

The Convener: We are looking for members to make an objective judgment about whether someone might reasonably think that the member could be influenced by a non-pecuniary interest, for example their membership of an outside body. The committee agreed that MSPs should not be exempt from the provisions of the legislation that we imposed—if that is the right word—on those who are elected to represent us in local government. We decided that we would try to take a consistent approach, but I agree that the assessment might not be easy for individuals to make.

The treasurer of the local cricket club will not excite a great deal of interest unless he is trying to exert influence on a local authority to make a substantial grant to the club. I would have thought that someone who was being objective would not expect an interest to be declared in circumstances in which there are no significant financial or planning implications.

As members of the Scottish Parliament, we have not just the right but the duty to exercise judgment, and we are held to account for the judgments that we make. We are spelling out the parameters against which we will make judgments and we agreed earlier that we will try to do that as objectively as we can against the measure of whether others could perceive that we have failed to declare an interest and might be influenced by factors that are external to just the value or otherwise of the proposal.

Donald Gorrie is right in that the matter has excited, and will perhaps continue to excite, more interest than others. However, given that only 30 people took the trouble to contact us, compared with the 54,000 people who participated in the consultation on smoking, it seems that, although it might be of interest to some people, it is not stirring up the general public. That is not to say that we do not value the views of those who took part, but so far the matter has not generated a great deal of interest in spite of our best efforts to encourage people to participate.

Alex Fergusson: You highlight a general point that I wanted to make. When we read the phrase “the majority of respondents” in the report, it suggests that “the majority” could be 53,280. In this instance, I wonder whether we should say, “the majority of the 30 respondents”, which would

put the matter in context. Some of the divisive issues in the report were actually raised by remarkably few people.

The Convener: Few respondents replied to all our questions. The questions on this subject attracted more interest than others. Of the 30 respondents, two responded by doing us the courtesy of saying that they did not wish to participate so, in reality, we had 28 respondents, but to no question did we have 28 replies. The suggestion that the report should say how many out of the total number of respondents replied to a question is positive and would be a useful addition to the report to the Parliament. I take it that members agree.

Bill Butler: Absolutely.

Donald Gorrie: Paragraph 34 starts by referring to respondents. It would help to say whether that means all respondents.

The Convener: It means all those who responded to the question, but the number was not 30 or 28. I do not recall the exact number, but I think that it was more than 10. The typical number of respondents to each question was between 10 and 12, although some questions attracted more responses than others.

I am making comments, but I did not write the report. To be fair, it might be useful to have advice from the clerks or our technical advisers about the number of respondents and whether the suggestion causes any difficulty.

The clerks tell me that they are happy with the suggestion.

Mark Richards: That is fine.

The Convener: Mark Richards is also happy with the suggestion. Is everybody otherwise content with pages 9 and 10?

Members indicated agreement.

The Convener: On omissions, Mr Macintosh wants to have a defence considered.

Mr Macintosh: We discussed the matter at an earlier meeting. There is no defence to a criminal prosecution for breaking the members’ interests order. David Cullum from the non-Executive bills unit made a constructive suggestion about that, which he invited me to explore with him, but through my own fault I have been unable to do so. He was not in the Parliament last week when I went to speak to him. The matter is a relatively important point to include in our report.

Several situations are possible. Someone who breaches the members’ interests order could acquire a criminal record, which is a serious matter. There is no defence. Should we have a defence? David Cullum has produced a

suggestion. As members know, ignorance is no defence, but the rules are quite complicated and we could easily break them inadvertently.

The Convener: Ignorance is no defence.

Mr Macintosh: I just said that.

Donald Gorrie: Administrative failure might occur. All of us are guilty of that on occasions.

Mr Macintosh: That is right. Another consideration is not meeting deadlines. The order contains many dates that people could miss. David Cullum has worked on the issue and we should reflect that in the report.

The Convener: My only concern is that the report is to be signed off today to allow progress to be made. Members are aware of the proposed timetable. I accept Mr Macintosh's point and I will seek guidance from our advisers about how to deal with defences.

Mark Richards: I have had the benefit of seeing the note that David Cullum sent Ken Macintosh. The points that are made in the note are reflected in the report. The key issues arise when members might not be aware that they have an interest or that an interest should be registered. That would apply where there is a gift to a spouse or where shares are held by a spouse. We can address such situations—as we state in the report—by putting in a provision dealing with the member's knowledge of the interests held by the spouse or partner.

The Convener: Would there be a problem in adding that advice to the report, so that all members of the Parliament have the benefit of it when it comes to the parliamentary debate? I take the point that the individual items have been addressed as we have gone through the report in general, but I have some sympathy with Mr Macintosh's view that we ought to spell it out clearly for all members.

Mark Richards: I think that it is already reflected in paragraph 18 of the report.

The Convener: That relates to gifts and shares. It does not apply to heritable property, because it does not say so, neither does it apply to any of the other matters. The general principle is there, but paragraph 18 relates to the specific. Does it also apply to all the other specific issues?

Mr Macintosh: Does it apply to heritable property?

Mark Richards: I did not think that heritable property was to be registered where it was owned by the spouse and not the member. If the member had an interest in it, clearly it would need to be registered, but it would not if it was just owned by the spouse.

Alex Fergusson: That refers to the point that I tried to make earlier, when we were talking about partners' shareholdings. Ever since then, I have been reading paragraphs 38 to 41 and I can see no requirement to register a partner's heritable property. If we do not have to register a partner's heritable property, I do not see why we should have to declare their shareholdings either. I seek clarification, convener.

The Convener: Thanks for putting me on the spot. We should attempt to achieve a uniform approach. I favour spelling out the defence position somewhere in the report. I accept that it is spelled out in relation to gifts and shares in paragraph 18. The committee so far has not agreed whether we should have to declare the interests of spouses or cohabitants in heritable property.

Mr Macintosh: Will the clerks clarify the current position? I was labouring under the misapprehension that partners' shareholding and property interests had to be declared, but clearly that is not the case. We should be consistent.

The Convener: Paragraph 4.3.41 of the code of conduct states:

"A member has a registrable interest ... Where a member owns or has any other right or interest in heritable property".

If a spouse, cohabitee or partner—whatever the appropriate word is—owns another property, the member might well have rights or an interest in it and, therefore, ought to declare it. However, since that is not clear, we need to spell it out. We need to take a view on whether we want it in the bill for consistency's sake, or whether we want it out on the basis that it is an intrusion in the privacy of someone other than the member. I take the view that it ought to be included. If capital assets such as shares and other financial interests are included, so should property. If it is not, there will be name changes to avoid registration.

12:00

Linda Fabiani: If we said that property should not be registered, people would think that we were doing something dodgy. Both types of interest should be declared clearly.

Bill Butler: I echo the opinion of Linda Fabiani and the convener that both heritable property and shares should be declared. If property is not included, the perception of even a fair-minded observer might be poisoned.

Karen Whitefield: I agree that interests in both heritable property and shares must be included in the register of interests. If they are not, the exercise is pointless.

Alex Fergusson: I have considerable doubts about this proposal, as it is invasive in respect of people who are not members. I have never had any difficulty with what members are asked to do, but I have considerable difficulty with what I suspect the committee will ask members' partners to do. I would not go to the wall on the matter at this stage, but I have reservations about it.

The Convener: Do you accept that the current position is that partners' property should be registered?

Alex Fergusson: Clearly, the passage that you read out is open to interpretation. I am thinking out loud, but what would happen if my partner was left some heritable property by a relative who had died and she refused to let me register it, because she did not want the world to know that it had been left to her? Where would that leave me?

The Convener: It would leave you in a difficult position. If the Parliament agrees to legislation that requires the heritable property of a member's partner to be declared, it must be declared unless the member does not have knowledge of it. In the circumstances that Alex Fergusson describes, the member would have knowledge of it and would be in breach if it were not declared.

Mr Macintosh: Surely the test is whether the member has an interest in the property, rather than whether they have knowledge of it. I have considerable sympathy with what Mr Fergusson says. Our partners are not elected to Parliament and do not choose to put themselves forward for public office, so they are definitely due more privacy than members are. We all accept that we give up many of our rights to privacy when we stand for public office. We might be supported in that decision by our partners, but they do not make the same choice.

Linda Fabiani said that if we decided that property should not be registered, that provision could be used as a device to hide something. That is not the point.

Linda Fabiani: It could be perceived as such.

Mr Macintosh: Yes, and that is important. However, the most important change affects staff as well as members. Staff are covered by the code of conduct, rather than the members' interests order, but I know that staff have concerns about what they must declare. The key issue in this case is how heritable property or shareholding affects members. We are replacing the members' interests order, so we should be concerned with the interests that members have in their partners' wealth or shareholdings. If a member's partner inherits a property, does the member automatically have an interest in it that should be declared? That is a fairly grey area. It is not obvious to me that the property should automatically be declared.

Linda Fabiani: What about the scenario in which an MSP owns three or four properties that he lets out, which he decides to transfer to his wife, so that he does not have to declare them? We will never get a perfect system.

The Convener: My worry is that the member might fail to declare such interests before seeking to change the legislation on houses in multiple occupation.

Karen Whitefield: I would be concerned if we decided not to have the heritable property of members' spouses or partners registered. We have had many of the arguments before and I thought that we had reached a conclusion. I accept that members' spouses and partners do not seek elected office, but when someone decides to stand for elected office, their partner or spouse knows about it, so if they have reservations, they should express them at that stage. Responsibilities as well as benefits come with being an MSP. If the MSP's spouse inherited property, they would have an interest, particularly if it were subject to a compulsory purchase order because a railway line was being built and the member sat on the committee that was considering the railway line. There are all sorts of scenarios. Perhaps most of them would never arise, but we have to ensure that nobody can perceive MSPs to be shirking their responsibilities.

The Convener: We need to make a decision on this. This is not the end of the matter. The draft bill will appear before the committee and Parliament will have the final say, although we will be influential. The fact that we have had this debate, again, will show that we have considered the matter and that it is not simplistic or black and white. I seek a proposal on which we can vote.

Linda Fabiani: I propose that heritable property be treated in the same way as are share declarations.

Bill Butler: I second that.

Mr Macintosh: Would that entail amending the report?

The Convener: It will entail amending the report, because as it is written there would be no need to declare heritable property that is owned by a spouse, partner or cohabitee. That is a dilution of the existing situation.

Mr Macintosh: Remind me of the existing wording. As far as I can tell, it has been satisfactory for the past four years and has covered every eventuality.

Bill Butler: Yes, but it is not as precise as we would wish. If the committee accepts Linda Fabiani's proposal, which I seconded, the position would become clearer.

Mr Macintosh: What does it say currently?

The Convener: The current order states that

"Where a member owns or has any other right or interest in heritable property ... the market value of which ... is greater than £25,000",

that needs to be registered. The suggestion is that we clarify the position only in relation to property that is owned by a spouse, partner or cohabitee.

Usually, I try not to divide the committee, but we are going round the houses on this. We will not have the final say on the matter. Nevertheless, I do not think that it reflects badly on us that we are having a debate. Members who hold different views about it should not be reluctant to express them.

Alex Fergusson: I take it that the intention would be to rewrite paragraph 38. How and when would we sign that off? I presume that the committee would have to sign it off, unless we are going to change it now.

The Convener: I am quite happy to allow the clerks to find the appropriate form of words. On what Bill Butler and Linda Fabiani are suggesting, we should also include in any such change the defence that appears in paragraph 18. If members want to express an alternative view about either the wording of the report or the members' interests order, I am happy to hear it.

Mr Macintosh: I would prefer the wording that is in the members' interests order, which refers to a member having

"a right or interest in heritable property",

which could be a partner's shareholding or heritable property. We should be consistent with regard to shareholding and heritable property. I think that the wording to which I referred is sufficiently transparent. In the scenario that Karen Whitefield described, we would have a clear interest and should declare it. We are trying to establish a boundary between a transparent system that lets people know where we are all coming from and which makes clear who we are as individuals and our circumstances, and a system that would, in effect, invade the privacy of somebody who has not stood for Parliament.

This is a difficult issue to discuss without having hard-and-fast examples to refer to. However, I do not think that we should work on the basis that members will use the members' interests order to get round their duties. I do not think that that is what is being suggested, nor has that been the practice.

The Convener: Are you making a specific suggestion?

Mr Macintosh: My suggestion is that we use the wording in the members' interests order.

The Convener: Okay, that is an alternative view. I think that we will get a little guidance from our legal adviser about what the current situation is and how we might resolve our problem.

Catherine Scott (Scottish Parliament Directorate of Legal Services): It would be helpful for the committee to know how the provision in the current MIO has been interpreted. The interpretation has been that any other right or interest in heritable property is a legal right—for example, having a lease on property or holding a standard security over property, or perhaps having a legal right under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 to a property, which does not come simply through a spouse's ownership of the property.

Mr Macintosh: What about having an interest?

Catherine Scott: The same interpretation would apply because the meaning of "interest" duplicates that of "right".

The Convener: That interpretation is different from the one that I gave. So the current situation is that, unless there are existing legal rights according to the definition that you gave us, there would be no requirement to register a property that is owned by a partner.

Catherine Scott: That is correct.

Mr Macintosh: Will you clarify that you are suggesting that, for example, if there were an area of land on which my partner had a property, I would not have to declare that?

Catherine Scott: That is correct. The heritable property provision refers to a member's rights or interests in a property, which is different from the provisions in the gifts category or in the interest-in-shares category, which give the alternates of those things being owned by or given to a spouse or partner, or a member.

The Convener: Is it agreed that, if we decide to include a spouse's heritable property in the duty, we will apply to it the defence provision in paragraph 18 of the draft report?

Members indicated agreement.

The Convener: All we have to decide now is whether to include a duty to declare the interest of a spouse or partner in heritable property. The current situation is that, unless the member has specific legal rights in such a property, there is no requirement to declare it. We would be suggesting that we change and tighten the existing legislation if we decide that a member must declare a heritable property in which a spouse or partner has an interest. Am I right in thinking that Linda Fabiani and Bill Butler want to continue with their proposal?

Linda Fabiani: Yes.

Bill Butler: Yes.

The Convener: Is there a different view?

Members: No.

Alex Fergusson: I probably have a different view, but I am content that Parliament will debate and decide on the matter. That is the proper forum for continued discussion of the matter. On that basis, and having put my reservations on the record, I will not stand in the way of that proposal going through.

The Convener: Is that clear enough for those who must deal with it? We have agreed that a partner's interest in heritable property should be declared, but that the defence position that appears in paragraph 18 will apply to it. That will provide consistency. However, the issue is a matter for debate and we have spent a long time on it. Is Mr Macintosh content that the defence issue has been fully addressed?

12:15

Mr Macintosh: Eh, yes.

Bill Butler: That is very clear.

The Convener: In that case, we will conclude the discussion.

Donald Gorrie: I am sorry, but I missed out a pedantic point, which is that the wording in paragraph 17 should be "intra-family gifts", rather than "inter-family gifts". I point that out in case some legal chap gets hold of it. The reference is to gifts within a family. Inter-family means between two different families; intra-family is the correct term.

Mr Macintosh: That is the benefit of a Latin education.

Donald Gorrie: That is correct; it was not entirely wasted.

The Convener: We have had rather more of a debate on the subject than I had expected. To ensure that we get this just so but do not delay the process any further, is the committee content to delegate the consequent detail of our decision to the clerks, our advisers and me?

Members *indicated agreement.*

The Convener: Do you require us to circulate a description of the proposed changes to you?

Members: No.

The Convener: In that case, I am delighted to conclude this particular item of business. We can look forward to its parliamentary progress.

We decided earlier that items 7 and 8 would be taken in private, so I invite members of the public and the media to leave. I thank you for your attendance.

12:16

Meeting continued in private until 12:29.

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

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

The deadline for corrections to this edition is:

Monday 27 December 2004

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

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

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Astron Print Room.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop
53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

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

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron