

STANDARDS COMMITTEE

Tuesday 25 January 2005

Session 2

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STANDARDS COMMITTEE

1st Meeting 2005, 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 :

Hazel Martin (Scottish Parliament Technology and Facilities Management Directorate)

Iain Smith (North East Fife) (LD)

CLERK TO THE COMMITTEE

Jennifer Smart

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

Committee Room 1

Scottish Parliament

Standards Committee

Tuesday 25 January 2005

[THE CONVENER *opened the meeting at 10:48*]

Commissioner for Public Appointments

The Convener (Brian Adam): Welcome to the first meeting in 2005 of the Standards Committee. I remind members to switch off their mobile phones. As far as I am aware, we have received no apologies.

Karen Whitefield (Airdrie and Shotts) (Lab): I would like to submit apologies on behalf of Bill Butler, who might be late. I understand that there have been problems with the Glasgow trains this morning. However, he is on his way. He was trying to catch a bus.

The Convener: In that case, we look forward to seeing Mr Butler a little later this morning.

Agenda item 1 concerns the commissioner for public appointments. I welcome Iain Smith, who is the convener of the Procedures Committee. That committee will consider a draft report on the commissioner for public appointments at its next meeting. I understand that it is still fine tuning details of the procedure for laying the draft code of practice and for reporting breaches of the code, but that will have no material effect on the proposal to involve the Standards Committee in the process. It is likely that the Procedures Committee will report its proposals to the Parliament in March. Mr Smith is welcome to make opening remarks.

Iain Smith (North East Fife) (LD): I will be brief. I thank the committee for inviting me to the meeting. I am pleased to have been invited in these circumstances rather than in other circumstances. I am also glad that I managed to make it through the interesting door system.

The Public Appointments and Public Bodies etc (Scotland) Act 2003 requires the Parliament to do certain things, but there are currently no standing orders that allow for those procedures. The Procedures Committee considered the matter and took evidence from the commissioner for public appointments in Scotland at a meeting in December. The committee agreed to the commissioner's suggested course of action, which was that the best way of doing things would be for the Standards Committee's remit to be extended to include consideration of issues relating to public appointments.

Essentially, there are two parts to that role. There is consideration of the draft codes on public appointments procedures and on ensuring equal opportunities that the commissioner will produce, and any subsequent amendments to them. The other part that relates to the standing orders is the requirement to consider reports from the commissioner for public appointments on non-compliance with the codes. It was thought that such consideration would most logically come within the Standards Committee's remit. Therefore, the Procedures Committee is consulting the Standards Committee to find out what it thinks about the suggestion that the Standards Committee's remit should be extended to include matters relating to public appointments.

The Convener: Do members have any questions about the proposals?

Mr Kenneth Macintosh (Eastwood) (Lab): I have a specific question. I understand the logic behind the recommendations, which make sense, but one recommendation is that the equalities strategy should come to the Standards Committee. I understand why, in the interests of tidiness, the Standards Committee should be the commissioner's main reference point, but I would have thought that it would be better for the equalities strategy to go to the Equal Opportunities Committee.

Iain Smith: The recommendation is for the Standards Committee to be the lead committee on issues to do with public appointments, but that would obviously not prevent other parliamentary committees from being involved. I would have thought that the Equal Opportunities Committee would wish to be involved with the equal opportunities strategy. However, as you hinted, the logic is that the Standards Committee—as the lead committee—should have the final say in determining such matters, as it would have to deal with breaches of the codes.

Mr Macintosh: Advising or reporting on the code of practice is straightforward, but did the Procedures Committee or the commissioner think about what the Standards Committee would be expected to do when there are cases of non-compliance or cases that the commissioner has a concern about? When an issue is reported to us, there is normally a set series of procedures and a three or four-stage investigation. I take it that that procedure is not being suggested and that the commissioner would simply draft a report if she thought that the Executive was not complying with the code, pass it to us and expect us to investigate it. She would not, for example, expect us to refer the matter to the Parliament's standards commissioner.

Iain Smith: No, the suggestion is not to refer matters to the standards commissioner. The

Standards Committee would consider reports from the commissioner for public appointments and determine whether it wanted to take any further action on them—for example, evidence could be taken from the relevant minister on why the code appeared to have been breached. Obviously, determining how to conduct an investigation into any report from the commissioner would be a matter for the Standards Committee.

Mr Macintosh: That is fine—such things would be a matter for us.

Finally, what happened when Dame Rennie Fritchie was the commissioner for the whole of the United Kingdom and found a fault or dealt with a case of non-compliance? What procedure was followed? That is not mentioned in the papers. I am sorry to ask you if you do not know the answer. I am being a bit unfair.

Iain Smith: There was no parliamentary involvement where there was non-compliance. Matters were resolved between the commissioner—Dame Rennie Fritchie—and the department or ministers involved. The Public Appointments and Public Bodies etc (Scotland) Act 2003 introduced the parliamentary aspect of scrutiny. I was a member of the committee that dealt with that act and I believe that giving the Parliament the ultimate role in supervising the code was a sensible way forward.

The Convener: What are the alternatives to the Standards Committee taking on the workload?

Iain Smith: The primary alternative would be to establish a public appointments committee. To be frank, however, the workload is not sufficient to justify the establishment of a separate committee. Other than the initial workload of assessing and approving the draft code, the workload—which will consist of dealing with breaches of the code—will not be huge. There would be no merit in establishing a separate committee to deal with such a small workload.

The Convener: I assume that the Procedures Committee will consider changes to the current remit of the Standards Committee and put proposals to the Parliament in due course in a report.

Iain Smith: That is correct. We will issue a report that recommends a course of action, including amendments to the Standards Committee's remit to add the public appointments aspect.

Karen Whitefield: The note that we have suggests that it is unlikely that the Standards Committee will have to investigate breaches of the code particularly often. When Karen Carlton gave evidence to the Procedures Committee, did you pursue that issue with her? Can you say how often

she has raised concerns with the Executive about its public appointments procedure?

Iain Smith: I do not recollect that specific question being asked, but the evidence that Dame Rennie Fritchie gave in the previous session of Parliament during the consideration of the Public Appointments and Public Bodies etc (Scotland) Bill suggested that there were few cases of non-compliance and that most of them were resolved through discussions between the commissioner and the relevant ministers and departments. It was thought to be unlikely that a breach would be so serious that the commissioner felt required to report the matter to the Parliament. I am not aware of any breaches that were serious enough to result in a report.

Karen Whitefield: If it is unlikely that such matters—should we take responsibility for them—will come to the Standards Committee's attention, does the safeguard need to be in place?

Iain Smith: The parliamentary aspect—I am not now speaking as the Procedures Committee convener—was introduced as a final safeguard to ensure that the public appointments process is open and fair. The parliamentary involvement makes it even less likely that ministers will breach the code. We want to introduce procedures because, in the unlikely event that a breach occurs and the commissioner feels the need to report the matter to the Parliament, it would be more sensible to have procedures in place rather than to invent them on the hoof to deal with the situation.

The Convener: I assume that the principal work that will be involved for the Standards Committee will be scrutinising the draft code and placing it before the Parliament for agreement. The committee may also have to update the code in the light of experience, but it is not anticipated that many cases of a breach of the code will come before the committee. Therefore, there may be an impact on the committee's workload in this calendar year, but beyond that the commitment will not be large. Are members content with the proposals?

Mr Macintosh: I have a query about the content when a report of non-compliance is published. I get the impression from the note and from what Karen Carlton said in evidence to the Procedures Committee that any report that she passes to the committee will be private. However, I am not sure whether there is an expectation that names will be removed and that the report will be anonymised, or whether, at the end of the process, a report will be published with all the details, both from the committee and the commissioner.

Iain Smith: Privacy is one aspect that is still being considered by the commissioner's office and the Parliament's legal advisers. The latest

information that we have is that most reports would be about the process rather than about the individuals involved in the process. Therefore, there would not be much information relating to individuals or confidential information and the committee's consideration could take place in public. However, if any reports from the commissioner contained information that would breach confidentiality, it would be for the commissioner and the Parliament's legal advisers to advise on which aspects the committee should take in private and which in public. We are fine tuning those aspects of the changes to standing orders.

The Convener: If the Parliament gives the Standards Committee responsibility for dealing with the code, we will address such issues in our investigation of the proposals for the code and draw our own conclusions. However, that is a matter for another day. Today, we are being given the opportunity to consider the circumstances of our potential involvement in the process. Therefore, I take it that no member objects to our taking on that proposed role and to my writing formally to Mr Smith to say that we are content with the proposals. Is that agreed?

Members *indicated agreement.*

The Convener: I thank Iain Smith for attending.

Cross-party Groups

11:01

The Convener: Item 2 concerns a proposal to establish a cross-party group on sustainable forestry and forest products. The application was submitted by Helen Eadie, but she is unable to attend today. I understand that Alex Fergusson might be in a position to speak in support of the application. If he wishes to make a few opening remarks, he is welcome to do so now.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): Thank you, convener. Helen Eadie asked me to say a few brief words, as she is unable to be here, for which she apologises.

The proposed cross-party group on sustainable forestry and forest products has been some time in the making—it was spoken about even in the previous parliamentary session. As a rural member, I believe that there is a great need for the group. The proposal complies with the rules on the number of MSPs and the parties that they represent and, as the committee will see from the proposed non-MSP membership, there is a strong desire among the various agencies and organisations that are involved in forestry for the group to be established.

The group has a wide-ranging potential agenda, which includes: the possibility of feeding into the review of the Scottish forest strategy; the role of timber in the provision of affordable sustainable housing, which is particularly important; the role of the public forest estate; and biomass as renewable energy. Forestry is a wide-ranging topic that everybody who is involved in the proposed cross-party group feels has great relevance not only for rural Scotland, but for the whole Scottish economy.

I hope that the committee will look favourably on the formation of a cross-party group on sustainable forestry and forest products. Other than on affordable housing, it does not impinge on the work of any other cross-party group.

The Convener: As no committee members wish to ask any questions and the proposed group complies with the current rules, as Mr Fergusson points out, is the committee content to approve the application?

Members *indicated agreement.*

The Convener: In that case, on behalf of the committee, I will write formally to Helen Eadie stating our agreement.

Item 3 concerns cross-party groups and the MSP membership rule. Committee members might recall that, at our previous meeting, we referred to

a letter that we had received from Margo MacDonald, on behalf of the independents group, and we agreed that we would consider that letter at this meeting. Committee members have had the opportunity to look at the letter. Ms MacDonald was given the opportunity to be present at today's meeting but, unfortunately, she is unable to attend because of a prior engagement.

The code of conduct provides for cross-party groups, as opposed to all-party groups. When cross-party groups were established, the presumption was that the groups should have a strong representation from all the parties on the Parliamentary Bureau. However, as we have just agreed to the 55th cross-party group, such a rule inevitably means that individual members may be on a large number of groups. As Margo MacDonald points out in her letter, our rules perhaps therefore need revising in light of the change in membership of the bureau.

It would seem inappropriate to compel members of the smaller parties and of the independents group to join cross-party groups, as that would be extremely onerous. Our current interim interpretation of the code of conduct allows for some flexibility for the smaller parties and allows us to waive the membership rule so that no single party can veto a cross-party group.

Margo MacDonald suggests that we ought to adopt the same arrangement for cross-party groups as we have for the introduction of members' bills. That would mean that only a majority of the parties that are represented on the Parliamentary Bureau would need to be signed up to a cross-party group. That would be a further relaxation of the current rule.

Mr Macintosh: The issue obviously needs to be given more thought. I have some sympathy for Margo MacDonald's position, as there is no doubt that the current situation was not envisaged when we started. However, I am not sure about her suggestion that it would be "logical and sustainable" to apply the new rules for members' bills to cross-party groups. There would be some simplicity in doing so, but no logic. I understand that the rule for members' bills was introduced so that, apart from anything else, the parliamentary authorities would have some criteria by which they could weed out bills that had no chance of success. The rule for members' bills was a threshold to stop those bills that had no chance of achieving the end-purpose for which they were designed.

The thinking behind the rules on cross-party groups is entirely different. Although the rules initially implied that the groups were all-party groups, the groups are in fact called "cross-party groups". Before any of us became members of the Standards Committee, the committee agreed that

no single party should be able to veto a cross-party group. I agree with that.

At the same time, it is important that the groups are genuinely cross-party forums. There is no evidence to suggest that that is not the case, but there is no doubt that in practice most meetings of most groups tend to have only a small number of MSPs present. In effect, most groups are dominated by one big lobby. I am not saying that the groups behave in a partisan manner; I am simply describing how they operate.

We need somehow to keep that cross-party spirit at the heart of the groups without putting insuperable obstacles in the way. There is no doubt that all members of the small parties—and, frankly, all the back benchers of the other parties—are being stretched because of the pressure to be members of cross-party groups. For example, I do not know whether there was a delay between the initial discussions on and the registration of the cross-party group on sustainable forestry that Alex Fergusson spoke to, but such delays often occur because of the difficulty of getting across-the-board membership.

When most parties and most MSPs are lined up sympathetically, the reluctance of members from smaller parties to commit their time should not be an obstacle. Members might be reluctant to commit their time to a group but they might not want to stand in the way of the group being established. Somehow, we need to get that balance right. When the Standards Committee in the first session of Parliament considered cross-party groups, I suggested—although my suggestion was not a goer—that groups could have two classes of membership: active membership and passive membership.

The Convener: That is a reflection of reality.

Mr Macintosh: Yes. The issue is difficult. When we are asked to sign up to a cross-party group, there is always an expectation on us. Someone will say, "Why didn't you attend that meeting?" We can explain that we joined the group because we were interested in and wanted to receive information about the subject, although we do not have time to attend meetings, but that is not good enough for some people.

I do not think that my suggestion is the answer, but we need something along those lines. I am sympathetic to Margo MacDonald's suggestion, but I do not think that it is the answer, either. Perhaps we need a variation on the system that is already in place, which would require that at least four—if not five—of the groups that are represented in the Parliamentary Bureau have to be represented.

The Convener: Margo MacDonald suggests that four groups should be represented.

Mr Macintosh: That does not make sense, given that she suggests that the rule for cross-party groups should be the same as the rule on support for a member's bill proposal—is that not her suggestion?

The Convener: Yes.

Mr Macintosh: In that case, perhaps five groups should be represented.

Donald Gorrie (Central Scotland) (LD): Standing orders require that a final proposal for a member's bill must be supported by members of

“at least half of the political parties or groups”.

What is the interpretation of that?

The Convener: It means four groups, because seven parties and groups are currently represented on the Parliamentary Bureau.

Donald Gorrie: So that includes the independents.

The Convener: If the number of parties and groups changes, the expression “at least half” allows the flexibility to recognise change. When the standing orders were drawn up, only four political groups were represented on the Parliamentary Bureau and dealing with matters on that basis was straightforward. The situation changed substantially after May 2003, when we had six groups. Since June 2004—I think—there have been seven.

We have been asked a legitimate question and this is an appropriate time to consider the matter. The question was stimulated by a discussion about a particular cross-party group, the proposed convener of which was a member of the independent group. We coped with that because the current system allows us to waive the rule, but the establishment of the group was delayed. Because of the broader political groupings in the second session of the Parliament, we might continue to have to deal with such cases. It might be much more difficult to ensure that someone from each of the seven groups on the Parliamentary Bureau is represented. The current arrangement also has the effect of raising the minimum number of members required for a cross-party group. We should consider the matter.

Donald Gorrie: That clarifies the situation. Margo MacDonald's letter does not make clear whether she thinks that cross-party groups should have a minimum of five members. I support a minimum of five members, who would represent four groups. That would be a fair compromise.

The Convener: That would deal with the current situation, but the form of words that Margo MacDonald suggests would allow more flexibility. If we specify a minimum number of members but not a minimum number of groups, we might not

have to revisit the matter. For that reason, the requirement that a cross-party group should have five members, who represent at least half the groups, has an attraction.

Karen Whitefield: I appreciate Margo MacDonald's concerns about the matter and she is quite correct to bring them to the Standards Committee for consideration. However, I am not convinced that the current system is not working. It is important to remember that cross-party groups need the membership of MSPs. When the Standards Committee considered the matter in the first session, Des McNulty said that there was an important and particular role for MSPs in cross-party groups and that such groups would not just be interest groups, which could be set up outside the Parliament. If that is the case and cross-party groups are to involve MSPs, it is important that groups reflect the Parliament's wider membership. When we considered the rules and regulations pertaining to cross-party groups last year, we took cognisance of the fact that the shape and make-up of the Parliament had altered since the first elections in 1999 and that members of new parties and independent members had been elected to the Parliament. We recognised that we could not put too much of a burden on those smaller parties by expecting them to be represented on every cross-party group.

I think that our existing rules have not prevented the establishment of any cross-party group. We may have to revisit the matter in the future, as none of us knows what the future holds. I would be slightly wary of following up on Margo MacDonald's suggestion simply because it is attractive that we would not have to revisit the issue. We must evaluate whether that is the right thing for us to do and whether there is a need for us to make any changes. I am of the view that that is not necessary at present.

11:15

Alex Fergusson: I agree entirely with Karen Whitefield. I am not at all sure that the system that we have in place now is not perfectly adequate. It has addressed the changes in the Parliament's make-up. We are talking about cross-party groups, not majority-of-parties-represented-on-the-bureau groups. There is a need for the make-up of the groups to reflect the Parliament's wider make-up to a certain degree. By introducing the waiver, the committee has already shown that it is flexible enough not to allow one party to have a right of veto. Ken Macintosh was quite right to say that at the time. I agree with Karen Whitefield that the present system is quite acceptable and perfectly adaptable, and I think that we should continue with it.

Linda Fabiani (Central Scotland) (SNP):

Although I am a fairly new member of the committee and was not part of the previous discussions, I broadly agree. There is no logic in comparing the requirement for membership of a cross-party group with that for the introduction of a member's bill. That is a red herring, as the issues are completely different.

It seems to me that what the committee has agreed in the past can still be made to work, especially as it has been made clear that a particular political grouping should not be able to block the formation of a CPG. I do not know how the committee has dealt with such situations in the past, but I have not heard any great screaming about the system or noticed any petitions to have it changed. It seems to me that it has worked fairly well and I hope that it will continue to do so.

I am concerned that discussion of certain subjects by CPGs could be stopped because of a veto, but we would have to consider such cases individually. If the committee had to investigate a case in which two of the major groupings refused to join up and support the establishment of a CPG, we would have to discuss matters and perhaps consider revising the rules, but until that happens, there is no point in changing them.

The Convener: It might help members to have a list of the groups that exist because we have applied the waiver and a list of those that are teetering on the brink of not fulfilling the criteria because of recent changes. I am sure that Donald Gorrie will not be averse to being identified as someone who is often willing to sign up to a group, even though he will not necessarily be an active member of it.

Although our current system has coped, that has happened as a result of good will rather than good management and good practice. Five of the 55 CPGs exist because the rule has been waived. I know of at least one group that has existed since the inception of the Parliament that is in some difficulty, as it is short of members from two of the four larger parties. I hope that it will be able to address that situation. I cannot deny that the system has coped, but I do not know whether we need to do anything further.

Mr Macintosh: Can I clarify a point that was raised earlier? Margo MacDonald's suggestion varies from mine not just in the number of parties that would be represented. At the moment, the stipulation is that cross-party groups include members of the larger parties. The requirement is not just for representatives from four or five parties but for representatives from the larger parties plus one of the smaller ones. Margo is suggesting that we get rid of that stipulation, and that is the difficulty. Ultimately, if a cross-party group contains members from only four of the small

parties, it could be representative of just a quarter of the Parliament's membership. That proportion is too small.

I do not think that we should be unfair. Smaller parties need to be protected, so we should not be too harsh on them. They need to be treated fairly. However, cross-party groups need to demonstrate that they attract cross-party and cross-parliamentary support. If the parties that are represented on a cross-party group account for only 34 out of 129 MSPs, that is not a huge proportion. It sounds as though members want to stick with the status quo, which seems a good idea. Is this something that we could put in the code of conduct, when we come to it, or would it not be dealt with in the code of conduct?

The Convener: The matter is in the code of conduct, which can be revised. The onus is on us to interpret the rules as they are at present. To make the system work, we have—I think sensibly—been asked to look at the matter again. We have that opportunity today. You are right to say that we can revisit it under the last item on today's agenda. We should, perhaps, resolve the matter one way or another today, in the light of our experience.

Karen Whitefield: I do not think that it is our job, in coming up with the criteria that apply to the formation of a cross-party group and the rules pertaining to it, to guarantee that everybody who has an idea for a cross-party group is able to turn that into a cross-party group. Over time, cross-party groups will come and go, according to the issues that they consider. Some, with a shared agenda or shared vision on a specific subject, may combine. I am the former convener of the cross-party group on carers, which addressed a very important issue. However, some issues do not always need to be pursued by a cross-party group. In the first session, carers' issues were at the heart of the Executive's policy and there was a need for those issues to be pursued. There was, therefore, a much greater need for that cross-party group to exist.

We do not always need cross-party groups to consider issues and we must be careful not to lower the threshold just because a cross-party group has difficulty in getting numbers. That will not always be in the Parliament's best interests. Our job is to ensure that cross-party groups can function properly, are truly representative and can fulfil the obligations that are placed on them. They should not exist just because somebody has a good idea. MSPs have many other avenues open to them by which to pursue interests and concerns about specific issues.

The Convener: You are right. Several cross-party groups have disappeared and some, such as the cross-party groups on the economy, have

merged. Nevertheless, the number of cross-party groups is at a record high at the moment.

Donald Gorrie: I basically support Margo MacDonald's proposition but, clearly, the committee as a whole does not, so I will not push it. It would be helpful for us to examine the issue intelligently in the future. Would it be possible for the clerks to give us—without an undue amount of hassle—a list of cross-party groups and the MSP members of each, so that we have a feeling for the numbers?

The Convener: Rather than printing it, if that information is available, it could be circulated electronically to committee members. That is not unreasonable. I, too, am broadly sympathetic to Margo MacDonald's position, for sheer practical reasons. Because a group had to request a waiver from us, it took some time to set that group up. I suspect that that situation might arise more in the future than it has up to now.

I do not agree with the proposal to require there to be MSPs from a majority of the parties that are represented on the bureau. Currently, groups can seek a waiver. I might be more sympathetic to the proposition that it would be enough for a group to have five MSP members from five of the seven groupings that are currently represented on the bureau, although that might mean that two of the larger parties are not represented. I would prefer not to force people into having to request a waiver. There are 50 Labour members and 25 SNP members but, under the current arrangement, if each group has one Liberal Democrat member and one Conservative member, each Liberal Democrat and Conservative member has to be on three cross-party groups.

Alex Fergusson: I wish I was on only three cross-party groups.

The Convener: And the reality is that many members are on many more groups than that and are struggling.

Linda Fabiani: I can see where you are coming from with the suggestion for representatives from five groups out of the seven. Should we be considering that option? I was not aware that we were doing that today.

The Convener: It is up to us.

Linda Fabiani: When I read the papers, all that I looked at was the model that was put forward by Margo MacDonald. However, I am happy to consider the issue and other options more broadly.

The Convener: I am quite happy either to make the decision today or to defer it and address it as part of the review of the code of conduct under item 5.

Mr Macintosh: It sounds as if there is not a majority in favour of changing the rules today, so we should stick with the status quo, on the basis that the status quo has never prevented a group from being formed. We have never turned down an application for a waiver. We could revisit the issue. It is important that we do not just tinker with the rules to adapt to individual circumstances but get some idea of the principles behind the rules.

When cross-party groups were first started, there was a strong feeling not to copy the all-party Westminster model, for good and bad reasons, some of which still hold. We might think that cross-party groups have shown their worth in other ways. There are principles that we should capture. My fear is that if we weaken the rules in different ways, we could see the party politicisation of cross-party groups. It is important that the groups maintain their cross-party nature and are genuinely consensual. There have been a couple of examples where they have not been, but most of the time they are genuinely cross-party groups. Once we go down the route of minimising the thresholds to form them and reducing the number of parties that are signed up and the total number of MSPs that have to be represented on them, we are in danger of fragmenting the Parliament and losing the principle. We should at least consider the matter in the round. At the moment, that is not the thrust of the committee's views.

The Convener: That is a reasonable statement of the views that have been expressed round the table. Are members content to stick with the current arrangements? Are they content to revisit the subject as part of our review of the code of conduct, which will give us the opportunity to obtain feedback from our peers outwith the committee and the Parliament?

Members indicated agreement.

Alex Fergusson: I tender my apologies for the rest of the meeting. I must go to another engagement.

11:30

The Convener: Agenda item 4 continues our consideration of cross-party groups. The item concerns links on the Parliament's internet site, which the committee considered at its previous meeting, when members had more questions than I thought that they would. We have a paper that contains responses from the Parliament's business information technology office—BIT—to our questions. Members were invited to submit further questions and I note that no one chose to do so. If members have more questions, they can ask them today. Are members inclined to ask further technical questions?

Mr Macintosh: I think that all the questions in the paper are mine.

The Convener: I was not looking at anybody in particular.

Mr Macintosh: You can tell me if I am wrong, but I believe that having many links on a site makes it more prominent in search engine results.

Hazel Martin (Scottish Parliament Technology and Facilities Management Directorate): Some search engines evaluate sites by the amount of cross-linkage, but adding a few links would not change our Google ratings much. The Parliament's site already contains hundreds of thousands of links.

Mr Macintosh: So that is not really a factor.

The Convener: We have with us Hazel Martin and Emma Armstrong. They are technical people who will act as our advisers.

Are you content with that answer? Do you have more technical questions?

Mr Macintosh: All my questions were in the paper and have been answered, so I am content.

The Convener: Having received the answers, we must decide how to dispose of the matter. Do we agree to a limitless or restricted number of links? I assume that we accept the recommendations from our technical people that any maintenance issues will not be the Parliament's responsibility, that it should be pointed out to groups that maintenance is their responsibility and that it should be made clear that the content of links is not the Parliament's responsibility or endorsed by the Parliament. The Parliament's firewall will prevent access to inappropriate sites. I look for approbation. Have I got that right?

Hazel Martin *indicated agreement.*

Karen Whitefield: The answers to the questions in the paper helped members. I thank Ken Macintosh for asking all those questions on behalf of those of us who are not quite as familiar with the modern world of information technology as he is.

The clerks' paper gives us a couple of matters to consider. Should we allow cross-party groups to put links on the Parliament's website? Yes. As long as a cross-party group completes the necessary waiver that makes it and not the Parliament responsible for the links, no difficulties should arise. As long as cross-party group conveners are aware of that completely necessary waiver, I hope that no difficulties should occur.

Linda Fabiani: I am in broad agreement, but I have some concerns. If we agree to the recommendation, as well as there being a

disclaimer on the website, the convener of this committee should send a letter to all the conveners of the cross-party groups to say what is expected of them and what is deemed to be reasonable use of the Parliament's IT facilities. We should point out in clear terms that it is the responsibility of the cross-party group—and, ergo, of its convener—to maintain its web pages. All too often, members get an agreement like this to sign and do not realise that they are responsible. I foresee potential hassles and inappropriate expectations being placed on IT staff. Right from the start, there should be no doubt about what is expected.

The Convener: The position is that any cross-party group is entitled to apply to make reasonable use of the IT facilities. It would not necessarily be helpful to invite them to do so.

Linda Fabiani: Yes, there is that aspect.

The Convener: The current position is that if any cross-party group wishes to make use of the IT facilities, it needs to ask to do so. I suggest that it is at that point that the advice should be given to conveners. The advice can come either from the Standards Committee clerks or from BIT.

Linda Fabiani: You are right. I had not thought of that aspect—all of a sudden, all 55 conveners could say, "Link me up." That said, I am keen that a strongly worded letter should be written to any convener who applies. In that way, there would be no doubt that the responsibility is theirs and that they should be reasonable in their expectations of what Parliament staff will do to maintain or monitor their web links.

The Convener: Just for clarification, no cross-party group should go directly to BIT. They should make contact with our clerks, who will process the request. Our clerks will point out the responsibilities that the convener of the cross-party group has to undertake.

Mr Macintosh: My concerns about the implications for BIT have been addressed. Although there may be a little bit of work, it is clear that the problems are not insurmountable. Unless BIT becomes inundated with requests, it will be able to support the cross-party groups in this way.

My only other concern, which was raised previously, is that inappropriate links might be placed on the Parliament website. That would mean that, in effect, the Scottish Parliament authority and reputation would be used to endorse the body to which the link was made. I am concerned that some unsuspecting person who was surfing the Parliament website in the way that people do by going from one link to another could end up on a suspect site. I am concerned not about the number of links but about the content of the sites to which the links would be made. I am

not sure what our safeguard is in that respect. As long as we make clear to the convener of each cross-party group that it is their responsibility to sign up and vet the content of sites—not to do so personally but to be fairly clear that the link is being made to a normal, safe site—I have no objections to the links being made.

The Convener: A standard disclaimer will be made that says that the Parliament is not responsible for the content of any of the sites to which links are made.

Mr Macintosh: Absolutely, but we should ask conveners to be a bit more proactive than that. Let us take the example of a cross-party group with half a dozen MSPs and the same number of interest groups. If links are to be limited in number, to which of the interest group websites will links be made? I can envisage that those decisions could cause problems. Although we have to be fair, we do not want cross-party groups to make unreasonable demands of BIT by asking for links to a huge number of sites.

If interest groups that are represented on a cross-party group want a link, they should have to ask the convener of their group to sign something that says that he or she has seen the website to which the link is to be made, considers it to be fine and asks for a connection to be made. As I said, although conveners should not have to check every detail of the sites, they should be able to sign something that says that the site is safe and that it is run by a reputable organisation. If conveners had to make that sort of proactive statement, they would have to think about the link and not just say, "Yes, it's fine." That is the sort of safeguard that I would like to see the Parliament put in place.

The Convener: I suggest that we agree that it is consistent with the rules in the code of conduct that we have links, because that is the sense that I am getting from members. We will not place a limit on those links, but we insist on a letter of agreement being signed and on the other technical measures that BIT has sought. Are members content for us to proceed along those lines?

Members indicated agreement.

The Convener: I thank Hazel Martin and Emma Armstrong for answering our questions today and previously. I am sure that if there are problems you will be quick to draw them to the clerk's attention so that we can revisit the issue.

Code of Conduct

11:40

The Convener: Item 5 is the review of the code of conduct, which we agreed would be part of our work programme. The review, which we are likely to get to towards the end of this calendar year, should dovetail with the work that we have done on replacing the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999. We have already discussed some aspects of the code that we might want to examine and we have had input from the standards commissioner in the light of his experience.

Members have had the opportunity to read the papers relating to the code of conduct. Perhaps the people who are best placed to advise us are those who have to live by the code daily, so a good starting point would be for us to consult other members. Perhaps we should also consider getting external perspectives from an informed adviser, if we can identify such an individual. If we agree to go down that route we will have to ask the clerks and the Scottish Parliament information centre to identify an appropriate adviser. We might also be able to get help from other Government institutions. The matter will be discussed in public and anybody who has a view is more than welcome to express it.

At this stage, we need to decide in principle how we want to approach the review. I invite members to tell me what they think we should do.

Donald Gorrie: What is the position regarding consultation with MSPs about the proposed committee bill to replace the members' interests order? Consultation on the code could be integrated with that.

The Convener: We have already carried out the consultation on the proposed bill and the committee's report has been placed before Parliament. When we have our committee debate in the chamber on 25 February, the whole Parliament will have the opportunity to comment on our report. Assuming that Parliament agrees, the bureau will set up an ad hoc committee to consider the proposed bill. Before then, members will have the opportunity to discuss a draft bill, which will come to this committee. You are right to draw to our attention the fact that a review of the code of conduct will not happen in isolation. Things should dovetail in the sense that the debate around a bill to replace the members' interests order will take place in Parliament towards the end of the year, assuming that all the other procedures that I have mentioned take place, and we will be considering the code of

conduct in parallel with that. Does that answer your question?

Donald Gorrie: I was not sure whether members would have another chance to comment on our report in addition to taking part in the debate.

11:45

The Convener: The short answer to that is no, but members will have the opportunity to take part in the debate that the committee will lead and to participate in the process when the bill is considered by the ad hoc committee and goes through its various stages. The bill will not take an identical route to that taken by an Executive bill; I am happy for the clerk to give the committee some guidance about the subtle differences in proceedings.

Jennifer Smart (Clerk): My understanding is that, once the report is debated in Parliament, the non-Executive bills unit will produce a bill, which will proceed to the ad hoc committee for consideration and amendment by members. That is a chance to amend the proposals. The whole point of the draft report is to produce clear proposals for the committee's bill.

The Convener: The main difference is that there will be no stage 1 debate. The equivalent of the stage 1 debate will be our debate on 25 February. In essence, the principal difference is that stage 1 is missed out: there will be a debate on the committee's report, rather than a debate on a stage 1 report. The advice that I have received from the non-Executive bills unit is that the ad hoc committee will probably not meet on many occasions. Although there will be the usual opportunities for members to lodge amendments at stage 2 and stage 3, it is not anticipated that the process will be an extremely long one, unless we have got it wildly wrong and our colleagues in Parliament, or those who are appointed to the ad hoc committee, take a totally different view from us. The two pieces of work should dovetail at the back-end of the year.

Donald Gorrie: I clarify that the debate will be on 24 February, in case you are on record giving the wrong date.

The Convener: The debate will be on 24 February. I am sure that that will be clear in the *Official Report*. Thank you for that helpful intervention

Mr Macintosh: We are not fundamentally examining the principles behind the code of conduct. This is a practical update and review of the existing code. We will address a few of the issues that have been thrown up in the past couple of years, plus the issues thrown up by the

members' interests order. We do not want to start by putting out a consultation document and inviting comment on it. In many ways, this is a tidying-up exercise, although it will raise issues of concern. We should start in that frame of mind. The code is a practical document and we should approach it in that manner. We should get the views of those who are most directly affected: MSPs. I did not realise that we were thinking about having an adviser, although I am not against that suggestion.

The Convener: I am throwing the suggestion into the pot. How we proceed is up to members. Although the matter primarily affects MSPs, there is a public interest—I hope, too, that there will be some interest among the public in the review. Perhaps we should consider how we might best get a non-MSP view on the issue. I suggest that, at an appropriate time, I should send a letter to MSPs on behalf of the committee and that we should consider the principle of whether we want to find other avenues for getting people's views.

Bill Butler (Glasgow Anniesland) (Lab): I apologise for my tardiness, convener. I am afraid to say that it was caused by First ScotRail.

I take Ken Macintosh's point about making the process as practical as possible and consulting MSPs. However, I also take the point made in the paper about initially consulting not just MSPs but members of the consultative steering group code of conduct working group. After that, it would be appropriate to consider our next steps, one of which might be the appointment of an external adviser. I think that it would be fitting to start off in such a fashion.

Linda Fabiani: Bill Butler is obviously a mind-reader, because what he has said is almost word for word what I was going to say.

The Convener: Is the committee content with Bill Butler's suggestion?

Members indicated agreement.

The Convener: In that case, is the committee content to leave it to the clerks and me to draft the appropriate letters and to send them out at an appropriate time? After all, we do not want to confuse members, so it might be better to leave the work on the code of conduct until after the parliamentary debate on a replacement for the members' interests order. We are simply planning our work for the rest of the year. Are members agreed?

Members indicated agreement.

The Convener: I thank members for their attendance today. It is nice to finish at an appropriate time.

Meeting closed at 11:51.

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