

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Tuesday 30 October 2007

Session 3

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

2nd Meeting 2007, Session 3

CONVENER

*Keith Brown (Ochil) (SNP)

DEPUTY CONVENER

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

COMMITTEE MEMBERS

*Marlyn Glen (North East Scotland) (Lab)

*Jamie McGrigor (Highlands and Islands) (Con)

*Christina McKelvie (Central Scotland) (SNP)

*Hugh O'Donnell (Central Scotland) (LD)

Dave Thompson (Highlands and Islands) (SNP)

COMMITTEE SUBSTITUTES

Trish Godman (West Renfrewshire) (Lab)

Alison McInnes (North East Scotland) (LD)

*Alasdair Morgan (South of Scotland) (SNP)

Elizabeth Smith (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Margo MacDonald (Lothians) (Ind)

Irene Oldfather (Cunninghame South) (Lab)

CLERK TO THE COMMITTEE

Jennifer Smart

SENIOR ASSISTANT CLERKS

Mary Dinsdale

Jane Sutherland

ASSISTANT CLERK

Catherine Fergusson

LOCATION

Committee Room 5

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Tuesday 30 October 2007

[THE CONVENER *opened the meeting at 14:15*]

Interests

The Convener (Keith Brown): Good afternoon, everyone. It is a quarter past 2, so we can get started. First, I have received apologies from Dave Thompson—Alasdair Morgan is here as his substitute. We have not received apologies from Jamie McGrigor, although I am advised that he has recently had a family bereavement, so we will move on. We were going to have him declare his interests this afternoon as he missed that last time, but we will give Alasdair Morgan the chance to declare any relevant interests.

Alasdair Morgan (South of Scotland) (SNP): I have no registrable interests to declare.

Cross-party Groups

14:16

The Convener: Paper 2 seeks the committee's agreement to establish two new cross-party groups, and to re-establish three cross-party groups that operated during session 2 of the Parliament.

Turning first to the two new groups, members are aware that under the "Code of Conduct for Members of the Scottish Parliament", in considering whether to approve proposed cross-party groups that have not previously operated in Parliament, the committee is charged with considering a range of matters, including the group's purpose and whether it is being formed on the ground of public interest.

The first proposed cross-party group that we are considering today is on Alzheimer's disease. I welcome Irene Oldfather, who would be the proposed group's convener, to the committee. Do members of the committee have questions for her? No. I am sure that she was ready to take a couple of hard questions. As there are none, do members agree to the establishment of the cross-party group on Alzheimer's?

Members indicated agreement.

Irene Oldfather (Cunninghame South) (Lab): Thank you, convener—mine was a short appearance, but very welcome.

The Convener: The next proposed cross-party group for consideration is on coeliac disease and dermatitis herpetiformis. I welcome Margo MacDonald to our meeting today as vice-convener of the proposed group. Do members have any questions for Margo on the purpose or any other aspect of the proposed cross-party group?

Hugh O'Donnell (Central Scotland) (LD): I notice that an organisation called the Newton Consultancy that is represented by Yvonne Murray is involved. Can you tell me anything about that organisation?

Margo MacDonald (Lothians) (Ind): Briefly, no. I am sorry for that, but I will ensure that Hugh O'Donnell gets information on the Newton Consultancy. I do not know about it, so there would be no sense in saying that I do. I have worked with Yvonne Murray and I am absolutely convinced of her bona fides in this field. I would be very surprised if there was any conflict of interest related to her involvement with that consultancy—I would find that hard to believe. I can find out if you want me to. I do not know what you want to do, convener.

The Convener: The clerk is advising me that—although Hugh O'Donnell is right about the entry—the person is listed as an individual member of the cross-party group and not as a representative of that organisation. Is that correct?

Hugh O'Donnell: If it is clear that that is the case, then I am content. I just wanted clarification. Perhaps at some point I will ask Yvonne Murray what the connection is.

The Convener: If there are no other questions for Margo, are we agreed that the cross-party group on coeliac disease and dermatitis herpetiformis be established?

Members indicated agreement.

The Convener: Thank you Margo—we will get the information to Hugh O'Donnell subsequent to this meeting.

We have been joined by Jamie McGrigor. Will you declare your interests now, Jamie?

Jamie McGrigor (Highlands and Islands) (Con): I have no interests to declare relating to this committee. They are already on the register.

The Convener: We have still to consider applications for cross-party groups that were established in the previous session of Parliament. Is the committee happy to agree that those cross-party groups can be re-established?

Hugh O'Donnell: I might have misinterpreted this, but section 6 of the registration form for the proposed international development cross-party group indicates that subscriptions to the group should be £5. I might have missed something, but I seem to recollect that we should be told somewhere what the subscription is to be used for—I do not see that in the form.

The Convener: That is a good point. The clerks have advised me that we can write to the group and ask it to clarify what the subscriptions will be used for. We have done that with other cross-party groups: if you are happy with it, we can do the same with this group.

Hugh O'Donnell: If doing so satisfies the requirement, then that will be fine. Given our discussions on cross-party groups, I just want to ensure that everything is tight and in accordance with the rules.

The Convener: Just to avoid further delay, if we write to the group for clarification on that point and if the clerks are happy with that, is the committee happy for me to write to confirm that it is okay for the groups to go ahead?

Members indicated agreement.

Margo MacDonald: I thank you, convener, and I invite everyone to come our group's next meeting, at which we will have the Scottish rugby team.

Hugh O'Donnell: I suspect that there will be a queue at the door, Margo.

Margo MacDonald: There was the last time.

The Convener: Thank you, Margo.

Members will recall that the proposed cross-party groups should not meet until they have submitted their registration forms and have had the committee's approval. However, I have received a letter from Roseanna Cunningham, as the convener of the proposed cross-party group on rural policy, in which she asks whether the group can meet before our next meeting on 20 November, when the group will seek the committee's approval. I do not intend to agree to that request, but I seek members' views before I respond.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I do not have any objections. However, what does a cross-party group have to do to register? Most of the groups that we have discussed can say who their convener and members will be—how can that be agreed if the rules say that the groups cannot meet before they have had this committee's approval? Can you remind me what arrangements are in place?

The Convener: The groups are entitled to a first meeting before sending in their registration form. Perhaps that meeting helps them to agree their purpose and membership.

Cathie Craigie: Okay. However, you do not think that that covers what Roseanna Cunningham's letter requests.

The Convener: Yes—because the letter indicates that the group will meet unofficially. To be honest, I am not sure whether that is different from a normal meeting. The letter states:

"I understand that the group will not be approved before the meeting of the Standards Committee on 20th November. As the new convener of the group"—

the group obviously met to decide that—

"I write to ask whether it would be permissible for the proposed group to meet on an unofficial basis before that purely for discussions. Members felt that some preliminary discussions would be helpful to make the group more effective once officially it convened."

The letter does not say what the date for the unofficial meeting is, but it will obviously be before 20 November, which is when the committee will consider whether to approve the group's application.

Alasdair Morgan: I am a member of the group, so I have an interest. It strikes me that if a group meets informally as a group of members and other interested people, that is none of our business, to be frank. Perhaps we should just tell them that

what they do in their private lives is not our concern, even if it is done in Parliament.

Jamie McGrigor: I second that.

The Convener: So, we are saying that we have no role if the group chooses to meet unofficially. The clerk has pointed out that, in that case, the meeting should not be described as a meeting of the cross-party group on rural policy.

Hugh O'Donnell: The danger is that that would create a precedent that is contrary to the current rules.

The Convener: We can make that clear in the letter that we send to Roseanna Cunningham.

Jamie McGrigor: Just for clarification, is the group short of a party member or something? Is that the reason for the hold-up?

The Convener: No. The group did not submit its application in time in the first place, but no reason was given for its lateness. Obviously, the group is up and running now, because it has had its first meeting.

Jamie McGrigor: The last thing I would want to do is hold back a rural policy group. That would be a negative thing to do.

The Convener: As Alasdair Morgan says, we do not really have a role in the matter if the group chooses to meet informally. We will write to those concerned, saying that to them. The decision whether to approve the group will be made by the committee on 20 November.

Scottish Parliamentary Corporate Body

14:25

The Convener: Item 3 is consideration of the procedures that govern elections to the Scottish Parliamentary Corporate Body. From our previous discussion of the committee's work programme, members will recall the problems that the paper before us outlines, which were encountered earlier this year following the elections, when provision had to be made to allow the election of the First Minister to precede the elections to the Scottish Parliamentary Corporate Body as a result of the delay in the formation of a Government. The paper also proposes a rule change to allow greater flexibility in the rules to accommodate those circumstances, should they occur again in the future. I seek members' views on the paper. Does anybody have any comments or questions?

Cathie Craigie: I am happy to agree with the options that the clerks have placed before us. We should consider changing the rules to prevent such difficulties from occurring again. It would be proper for the committee to consult the relevant business managers, the Minister for Parliamentary Business and the Presiding Officers.

Jamie McGrigor: I agree with that.

The Convener: We have been through this before. If members are content, we will agree the recommendations in the paper and push ahead.

Members *indicated agreement.*

Points of Order

14:27

The Convener: Item 4 is consideration of the procedure for points of order. Members will recall that the last time we discussed the matter, under the committee's work programme, we agreed that the committee should consider the need for a rule change to prevent misuse of rule 8.17, which relates to points of order. Members feel that there may be occasions on which the rule is used to make points for which the rule was not intended, and that there might be merit in considering whether mechanisms could be introduced to prevent such abuse. The paper that is before us suggests a number of actions to assist the committee in taking the matter forward. I ask for any views, questions or comments on the paper.

Hugh O'Donnell: Is there a connection between the points-of-order issue and the "Scottish Ministerial Code"?

The Convener: We had a brief discussion of the matter at our previous meeting. The connection that was made was that both things would be looked at just now, but there is no obvious relationship between the two. The issue of points of order was raised at our away day and, as far as I know, there is no link between them. Are you talking about ministerial statements? The issue of publication of ministerial statements and who they should be sent to was raised, but I am not aware that there is any connection between that issue and the issue of points of order. When we discussed the matter previously, it was suggested that the Parliamentary Bureau might be looking into the publication of ministerial statements—I am advised that the bureau is considering the matter. There is no link between that and points of order.

Cathie Craigie: I am happy to accept what we have to do in order to progress our inquiry. I suggest that we leave the matter open in case it can be linked to anything that the bureau is considering. The bureau is just observing what happens in Parliament—it is not pre-empting any research that we might do. Often, when a member rises to make a point of order it has something to do with a ministerial statement or a minister's actions in Parliament. It would be right, therefore, in considering points of order, to link both issues in order to come up with a solution.

14:30

The Convener: I return to the question that was asked originally, which is whether the procedure for points of order is being abused. The Parliamentary Bureau has also discussed the matter. I think that everyone is aware that the

procedure is part of the democratic working of Parliament, so nobody wants to rush in and make heavy-handed changes.

If we leave things open, we will have the flexibility, which Cathie Craigie mentioned, to take other matters into account. Do members agree to push ahead with the work that is proposed in the paper? It seems to me that we might create a lot of work for the clerks if we ask them to examine many samples. Do we want to limit the samples to points of order from the current session or should we include ones from previous sessions? In discussions with the clerks, they suggested that we should consider a sample of 15 points of order and no more, otherwise it could become a large piece of work.

Hugh O'Donnell: Without having the figures to hand, the first question that occurs to me is whether there have been changes between sessions. Admittedly, we are only six months into the current session, but how many points of order were made in the two previous sessions? Can we extrapolate from that and do some analysis? If we considered every point of order, we would be here until kingdom come, so a time restriction is certainly required.

Cathie Craigie: I suggest that we compare the period from the end of the summer recess until the end of the year with the same period in 2003, because similar things might happen. As the Procedures Committee considered the matter in 2001, I do not think that we need to go back further than that.

Hugh O'Donnell: We should not end up comparing apples with pears—we must compare the same period of time in different sessions or the baseline will not be consistent.

The Convener: When I discussed the matter with the clerks before the meeting, there was concern that the work could become too large. We talked about examining 15 points of order, by which I mean original points of order, not ones that follow on—sometimes members make points of order on the back of others.

The suggestion that we should compare the current session with 2003 is a good one for lots of reasons. In relation to both the quantity and the nature of the points of order that are made, it would be good to get a comparison between what is happening now and what happened in 2003. We do not want to create too much work for the clerks, but such a comparison would be useful.

Hugh O'Donnell: Are we talking about a purely quantitative analysis? Will we analyse only the frequency of points of order or will we also consider their validity? I am talking not necessarily about whether points of order were upheld by a

Presiding Officer but about their validity in relation to standing orders.

The Convener: I do not think that there would be much point in considering just the number of points of order. We cannot find out whether the procedure is being abused by considering only the number. We need to consider the nature of the points that are raised and the Presiding Officers' reactions to them. Our analysis will be qualitative and quantitative.

Do we agree to give the clerks discretion to decide a suitable sample size as long as they compare 2003 and 2007?

Members indicated agreement.

The Convener: Part of the study will compare what we do with what other Parliaments do. We will also invite the Presiding Officer, the Minister for Parliamentary Business, business managers and the head of the chamber office to give their views, so the inquiry will be fairly wide ranging.

Code of Conduct

14:34

The Convener: Item 5 is a review of volume 2, section 8 of the "Code of Conduct for Members of the Scottish Parliament". This will be the biggest piece of work that we have dealt with so far. The paper proposes a remit and approach to the committee's review of the section in question and volume 3 of the code of conduct, which members will recall details aspects of members' conduct with one another, with ministers and with the public when working in their constituencies. Members are aware that the Presiding Officer has written to us on interpretation of that section and have had the letter copied to them. It is also contained in annex A to paper 4. In addition, members expressed their concern at the previous committee meeting about the impact of the section on their work in constituencies.

The paper proposes a timetable for seeking written evidence from a number of organisations, both parliamentary and external, as well as for seeking the public's views on aspects of a review. Given the matter's origins in the consultative steering group, the public obviously have a genuine interest in how they interact with MSPs. That is why, unlike the two previous matters which are more internal, it is proposed that we include the public in the review.

Does any member have any questions about or comments on what is proposed?

Hugh O'Donnell: As it stands, the proposal looks to be a perfectly acceptable and consistent way forward.

The Convener: Is that agreed?

Members indicated agreement.

The Convener: I should mention for members' benefit that, although we do not intend to issue a formal press release about the work that is to be undertaken, an appropriate paragraph will be put on the front page of Parliament's website tomorrow, which will link to the consultation information that is contained in the annex. The work will be publicised in that way, and I think that there will be subsequent entries on the web page at various stages of the inquiry to encourage members of the public to come forward.

Hugh O'Donnell: As a new member, I do not know whether that it is normal procedure for attracting contributions and submissions from the public.

The Convener: The clerk, Jennifer Smart, is saying that the procedure has been used in the past. I am in the same position as Hugh O'Donnell

in not having experience. I am also advised that it is open to us to go further or to work in a different way, but apparently an invitation on the webpage is how that has been done in the past.

Hugh O'Donnell: If that has produced a satisfactory result in the past, I see no reason to reinvent the wheel.

The Convener: Is everyone happy that we go ahead on that basis?

Members indicated agreement.

Cross-party Groups

14:37

The Convener: Item 6 on the agenda is guidance on cross-party groups. Members may recall that, at our meeting on 2 October, we agreed to consider the guidance to be issued to the conveners of all cross-party groups, highlighting key aspects of their operation. The paper that we have today outlines areas that could be considered for guidance. At this stage, we are looking for members' views on that.

Hugh O'Donnell: The guidance as it stands is good. Much of what we need to do is a gentle reminder to the relevant responsible elected members and other office bearers of cross-party groups of their obligations in relation to their formation and the recent letter that we discussed previously. A little refresher might not do any of us any harm in terms of doing those things properly.

Marlyn Glen (North East Scotland) (Lab): I agree. We should give all the help that we can. As a convener who has made mistakes in the past, I know that it is easy to miss something out. For example, we spoke about the applications. One application says that the amount per group member per year for subscriptions is £5, but is there a space on the form to detail what the money is to be used for? If there is only one space, someone can put the £5 in and think that they have filled in that part—although that is not a mistake I have made myself. We need to be helpful, because people try to fill in the applications in between everything else.

The Convener: I think that that will be covered in the guidance. Going back to our previous discussion, it was a question of giving a warning to MSPs—especially new MSPs—about the possibility of lobbying or leaving themselves open to accusations and about better conduct of the cross-party groups. We had to temper that with the fact that we did not want to end up in a policing role. The paper gives that balance.

Are members content to draw the attention of the conveners to the guidance on use of the Scottish Parliament logo, which is important, and that approval of the letter and guidance be delegated to me, as convener?

Members indicated agreement.

Decisions on Taking Business in Private

14:40

The Convener: Item 7 is decisions on taking in private two items that are mentioned on the agenda. As item 8 relates to a work programme issue, which members have not yet had the opportunity to discuss, it is suggested that members might want to discuss it in private to agree action and discuss how it might impact on the agreed work programme. As usual, once the decision has been taken in private, it will be made public. Are we agreed that item 8 will be taken in private?

Members *indicated agreement.*

The Convener: Are we agreed that, at our next meeting, we will hear in private the legal advice on the report CPA/2007/02 on the matter that we discussed at our previous meeting in relation to public appointments?

Members *indicated agreement.*

The Convener: We move into private session.

14:41

Meeting continued in private until 14:49.

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