

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Tuesday 5 February 2008

Session 3

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE 2nd Meeting 2008, 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 GAVE EVIDENCE:

Mr Robert Black (Auditor General for Scotland)

Karen Carlton (Commissioner for Public Appointments in Scotland)

Hugh Henry (Paisley South) (Lab)

Tracey Reilly (Scottish Parliament Directorate of Clerking and Reporting)

CLERK TO THE COMMITTEE

Peter McGrath

SENIOR ASSISTANT CLERKS

Mary Dinsdale

Jane Sutherland

ASSISTANT CLERK

Catherine Fergusson

LOCATION

Committee Room 6

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Tuesday 5 February 2008

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

“Diversity Delivers”

The Convener (Keith Brown): Good afternoon and welcome to this meeting of the Standards, Procedures and Public Appointments Committee. We have received no apologies; all members are present.

The first agenda item is consideration of the consultation document on the public appointments commissioner's proposed equalities strategy. I welcome to the meeting Karen Carlton, the Commissioner for Public Appointments in Scotland, who will give evidence to the committee.

The document, entitled “Diversity Delivers”, was lodged in the Parliament on 21 November 2007, and members will recall that we agreed to consider it when we discussed our work plan. In any event, it has now been referred formally to us by the Parliamentary Bureau.

By way of background, the Public Appointments and Public Bodies etc (Scotland) Act 2003 requires the commissioner to prepare and publish a strategy to ensure that the Scottish ministers make appointments in a manner that encourages equal opportunities. That might include setting targets. Before finalising the strategy, the commissioner must consult the Scottish Parliament and the Scottish ministers. Under standing orders, the committee must now consider the draft strategy and report its views to Parliament, which will debate them.

Members should note the questions posed by the commissioner in the consultation document, which are set out in annex A of committee paper SPPA/S3/08/2/1, as well as a letter from the Equal Opportunities Committee in annex B.

I invite Karen Carlton to make some brief opening remarks.

Karen Carlton (Commissioner for Public Appointments in Scotland): Hello. I am grateful to the committee for this opportunity to discuss my proposed equal opportunities strategy for public appointments.

The strategy's starting point is the limited diversity on the boards of our public bodies, which is due mainly to a lack of diversity among applicants. My research has identified that the key

factors are a widespread lack of awareness of public bodies, their boards and the opportunities for serving on them; an appointments process that is less applicant-focused and less supportive of diversity than it might be; and a lack of opportunities for developing the leadership and governance potential of future public appointees.

To address those challenges, I have made several recommendations that fall into three broad categories: awareness and attraction; confidence and capacity; and education and experience. Within those recommendations, I have identified what I believe to be priorities for achieving the strategy's aims, including a communication campaign to raise public awareness; a hub website for public appointments; improved monitoring of applicant statistics; and the establishment of a centre of expertise to advise on and administer the public appointments process.

Although the recommendations will not be achieved without some initial financial and human resources costs, I have in producing this strategy been mindful of the need to keep costs to a minimum. For example, the centre of expertise is designed as an alternative to the Scottish Government public appointments team, not as an additional resource. Likewise, although the introduction of a hub website and communication campaign will clearly involve some set-up costs, it will ultimately result in a significant reduction in the publicity budget for public appointments and will achieve much more widespread awareness.

The committee will have noted from the document that there is little evidence of practical action that has been taken or of improvements that have been made as a result of previous research into enhancing equal opportunities in public appointments. I believe that that is because previous recommendations have not always been sufficiently specific and that ownership of the recommended actions has not been made from the outset. Indeed, even when recommendations have been specific and ownership has been clearly allocated, there has not been adequate monitoring to review the actions that have been taken and to revise them if they have not been effective. Finally, previous recommendations have not suggested specific measures for the development of potential future public appointees.

This strategy, “Diversity Delivers”, has produced a set of specific, practical recommendations, with proposals for implementation and monitoring. I look forward to answering any questions that the committee may have.

The Convener: Thank you. We have a number of questions.

Dave Thompson (Highlands and Islands (SNP): Good afternoon. “Diversity Delivers” is

described as a strategy for enhancing equal opportunities. On page 19, you talk about equal opportunities and diversity, which you have mentioned today. What is the difference between diversity and equal opportunities? The Scotland Act 1998 refers to equal opportunities, but you have homed in on diversity.

Karen Carlton: The two concepts are not mutually exclusive. I see diversity as a route by which to achieve equality of opportunity. As you know, diversity simply means difference. In the strategy document, I am trying to capture the fact that we are not looking only at the traditional strands that are enshrined in equalities legislation. We want to widen the field to everyone in Scotland who is a potential future public appointee and to ensure that any difference—in age, ethnicity, location or socioeconomic grouping—will not be seen as a disadvantage. I suggest that we enable all those differences to be accommodated in the process, and the proposed strategy looks at ways of doing that. We should recognise that, because there are differences, there will be different ways of attracting and engaging people. The proposed strategy is designed to produce much broader equality of opportunity.

Dave Thompson: The approach sounds much more complex than one based on strict parameters. Did you consult equality groups to ascertain their views on that?

Karen Carlton: We did. We spoke to the three bodies that now form the Equality and Human Rights Commission. We talked at length about how successful the programmes that have been put in place in the past, not just for public appointments but for gender equality, have been, and about whether it was appropriate to use only the traditional strands as the basis for the strategy.

We took the slightly broader route for several reasons, besides our consultation with the equality bodies. The applicant statistics indicate that, year on year, there has been a significant decrease in the number of applicants since I became commissioner. In the past financial year, there were around 1,300 applicants, whereas in the previous year there were 1,700. That decrease is not confined to the traditionally underrepresented groups—across the board, fewer and fewer people are applying for public appointments. It is important to get the message across to everyone in Scotland, but there will be specific measures to attract people who are currently underrepresented.

Dave Thompson: That is the right direction in which to move. I looked at the statistics in sections 2.7, 2.8 and 2.9 of the report and was interested to note that the number of minority ethnic members of boards is in balance with the number of minority ethnic people in the community at large, that women are substantially underrepresented and

that those with the poorest representation are people with a disability, who account for 20 per cent of the population but only 2.5 per cent of chairs and members of boards. Will your proposals get to people with a disability and encourage them to come forward?

Karen Carlton: That is a difficult question to answer, not because I do not have some answers but because some of the facts are still to be determined. One issue is whether people are willing to declare a disability. We think that a number of applicants who are disabled fear that declaring that will bar them from the process. That issue must be covered in the communication campaign.

You may find that one of the straplines that I use is, "It's not who you know, it's who you are." That is the new face of public appointments in Scotland. I am trying to make clear to everyone that, no matter who they are or what they believe to be their disadvantage, they will be welcomed as long as they have the necessary skills and ability. Part of the issue is that we genuinely do not know how many people are disabled—we just know how many people declare that. Another part is that there still seems to be a widespread lack of awareness of what exactly constitutes disability. As you know, the legislation has changed and the definitions encompass a much wider field, but people still have traditional beliefs about what disability is.

It is interesting that, in the second stage of our research, which was on people who have expressed interest in the public appointments process, we asked whether people had a declared disability. That part of the online questionnaire took people directly to the definition of disability under the Disability Discrimination Act 1995. We found that 10.8 per cent were then willing to say that they had a disability. The issue is complex. I hope that communicating the fact that everyone is welcome and clarifying what we mean by disability might be two ways of helping.

Hugh O'Donnell (Central Scotland) (LD): Hi again, Karen. I hesitate to say that we must stop meeting like this—it was nice to hear your evidence to the Equal Opportunities Committee a couple of weeks ago.

I have some questions about a fairly fundamental issue—cost. The consultation document acknowledges that you have not costed the proposed strategy. In that case, how did you assess whether the proposals will be value for money? Given the absence of a costing, are you confident that those who are responsible for implementation will be able to work within their current budgets?

Karen Carlton: I will answer the second part of your question first. I am not entirely sure that any

specific budgets yet exist for enhancing diversity in public appointments. There is an existing budget for the central team that supports public appointments, which would be available for use for the proposed centre of expertise. That really is a no-cost option, as it involves moving resources from one part of the Scottish Government to another. Many of the recommendations are low cost or would use existing resources. For example, we already have monitoring forms and people analysing them, but I suggest a change to the form to get a much richer data set. That would not increase the requirement for resources or for people to do the analysis.

If, as legislation requires, we carry out an impact assessment of the public appointments process, that will throw up the necessary information to feed into the proposed information or data bank, which will allow targeted publicity and enhance the likelihood of publicity strategies being effective. Another recommendation is for a public appointments hallmark. I have already produced a hallmark and it will be implemented by the central team in the Government and by my Office of the Commissioner for Public Appointments in Scotland assessors. One significant proposal for which I have not been able to provide a cost is the hub website, but I have been told that the minister responsible is looking to develop a website to support public appointments. We know that, in the longer term, that would cut the cost of publicity substantially and increase awareness.

I have not produced costed and detailed action plans because, at this point, I have no idea which of the recommendations will be implemented. If there is general acceptance that my recommendations move in the right direction, the next step will be for the implementation group—if the recommendation to have such a group is accepted—to agree the priorities. The 2003 act gives me no power to implement the strategy, so I cannot say, “This is what you must do.” I can simply make recommendations and support the delivery. The implementation group would allocate the priorities and the budget. As with any other part of our life, if there is a limited budget, we must focus on the key priorities.

Hugh O'Donnell: You mentioned the Government a couple of times. In section 5.3, you recommend a partnership approach and you have alluded to why that is the most effective approach. Have you had a response from the Government on its involvement in that partnership approach?

Karen Carlton: No.

Hugh O'Donnell: So you have had no communication with the Government thus far?

14:30

Karen Carlton: Not specifically about the implementation group, but I have spoken to the permanent secretary about the creation of the centre of expertise simply because I know that the Government is planning to reorganise the infrastructure that supports public appointments. Back in April and May of last year, when I heard the plans, I recognised that I had information that might mean that the Government would go in a different direction—if it was made aware of it.

I have spoken to the Government about the centre of expertise, and I have met the new team leader. Next week, I will meet the director responsible. Those people seem to be in favour of what we are talking about, and they see that it mirrors the professional approach that they take to appointing senior civil servants. As such, I have the sense that there is agreement, although I have not had the Government's official response yet.

Hugh O'Donnell: At what stage do you expect to engage in such conversations?

Karen Carlton: I have not yet been invited to have a conversation with members of the Government other than the central team. It may simply be that we receive a written response or the *Official Report* of the debate in the chamber.

Hugh O'Donnell: And take it forward from there.

Karen Carlton: Yes.

Hugh O'Donnell: You have referred to enforcement tools. Have you had any specific thoughts on what they might be?

Karen Carlton: In terms of my own powers, enforcement could be provided only through a revision of the code of practice. As I said, I do not have authority to insist that certain actions are taken, but I can take action when the code of practice is not complied with in a material regard. My only course of action may be to ensure that my code makes it explicit that certain requirements must be in place to support diversity.

Talking more broadly, legislation now requires an assessment of the impact on diversity at each stage in the process. As I have made the Government aware, that is not happening at the moment. There is clearly wider enforcement that we can look to.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): The goal in your vision in the consultation document is that we have a pool of people who reflect Scotland as a nation and our diverse nature. On page 28 of the consultation document, you highlight the challenges in achieving that, such as the vast majority of people neither knowing what a public body is about nor

considering applying for a public appointment. You also say:

"In the last three years, one in three appointment rounds generated fewer than 12 applications."

I am sure that a lot of us find that amazing. People are not aware and do not know what a non-departmental public body is.

There are a lot of challenges of education in an awareness campaign. Can you explain how the communications campaign, which is outlined in the document and which you mentioned in your introduction, will address those challenges? How will it attract people from groups who have traditionally shied away from public appointments to apply for them?

Karen Carlton: There are several facets to the communications campaign. One simple suggestion is the creation of a leaflet that describes what public bodies do and—this is something that I believe people are not aware of—the impact they have on our lives.

When I speak to groups about public appointments—either about the rigour of the process to enhance confidence or to drum up interest in an appointment—I find that people have not made the connection between the board of a public body, such as the local health board, and a role that they might perform. They do not see the direct impact that they can have on, for example, health provision in their area or the raft of other issues covered by public bodies.

I propose some kind of straightforward literature that is widely available through doctors, dentists and community centres and says what a public body does and why it matters to people—why it should not be a case of reading the leaflet and putting it to one side.

Such leaflets could go into a little more detail on the role of board members of public bodies. An important point—I think that I was the first person to do this—is that they could also deal with the question, "What attracts people and motivates them to become a board member?" As previous research had only ever looked at the barriers, I decided that, this time, we should find out from applicants what attracted them to the role. We now have a lot of interesting information that we can include in the leaflet about "The benefits to you". Human beings are still motivated by "What's in it for me?", so it will be helpful to include that information in a publicity strategy. The leaflet should explain what a public body is, what the board does, what I will get out of it and how I get involved.

The leaflet should be supported by a DVD with similar information and by the use of role models, who should be quite different from the traditional

middle-aged, middle-class professional male board member that is the public face of public bodies at the moment. The role models could be beneficial in talking to groups and they could appear in the DVD and in the television campaign that I have recommended. Those are some things that we could do.

We should also highlight the support that we can give people to complete the application. For the longer term, I have recommended that we consider different methods of application because—perhaps I should not say this—even I would find it terribly hard to apply for some public appointments. When I look at the language in the ad, I lose the will to live by the time I get to the bottom of the advert, never mind read through the application process. We need to change the language to make the posts attractive. We also need to help applicants to fill in their application forms in a way that presents them in the best light.

The final part of the communication campaign should be to help people to find routes to education so that they know that, if they want to sit on a board in future, they can get help to develop the appropriate skills.

Cathie Craigie: On page 28, under the heading "The Challenges", the consultation document points out:

"Advertisements are presented in the house style of the Scottish Government. ... The Chartered Institute of Personnel and Development's 2007 guide ... highlights the importance of a strong employer brand".

Who currently places the adverts for the boards of public bodies? Are they placed by the Government or by the individual board? If the adverts are currently placed by the Government, should that be devolved down to the boards?

Karen Carlton: Until now, adverts have been placed by the individual sponsor team for the public body in the different directorates of the Scottish Government. The adverts follow a template that is produced by the Scottish Government and is in the guidance document. The sponsor team simply fills in a number of pieces of information such as the name of the body, the name of the board and the remuneration and time commitment involved. The template also includes all those statutory phrases about governance, responsibility and accountability that really do not encourage people to apply.

A central team is now taking over some responsibility for the advertisements but, clearly, it will not make massive changes until the strategy has been agreed. The advertisements have been the responsibility of relatively junior officials who use a template. I do not suggest that the boards themselves should produce the ad; I still think that that can be done by a central team with expertise.

The team also needs links to TMP, which is the company that currently places the adverts on behalf of the Government. Clearly, the larger the contract, the less the Government pays.

Rather than have adverts placed by individual boards, I think that they can continue to be managed centrally, but I fail to see in them anything that attracts applicants to the nature of the responsibility that the public body deals with. "Are you interested in arts?" "Are you passionate about sport?" "Are you deeply involved in the culture of this country?" "If so, why don't you apply?" That does not come across in a Scottish Government ad.

In the *Financial Times* last week, I picked up an ad for the Appointments Commission south of the border, which is extending its role to cover more than the health service. The ad said simply, "Strategic leaders required" and it had a flock of geese flying—the lead goose clearly being the strategic leader who is good at finding direction—along with just a few phrases about what people would get out of serving on a board. That attracts interest and it costs a lot less because the ad is smaller. Even if we did only that, it would make a huge difference.

Jamie McGrigor (Highlands and Islands) (Con): I understand that there will be a monitoring form to be analysed for each appointment round. Will you explain when and by whom the form will be completed?

Karen Carlton: There should be monitoring at various stages. The form to which I think you refer, which is the one that I talk about in detail in the strategy, will contain detailed information about applicants so that, at the end of a publicity campaign, there will be information about the number of men, the number of women and the number from particular groups in society—all the things that we suggest should be in the form. Currently, those statistics are analysed by sponsor teams and passed to the central public appointments team. It is probably for the Government to decide at what level and when the analysis will be done but, if the agreement is implemented, either a sponsor team or a central team will do that work and provide the information to the hub website, where the statistical analysis will be completed.

Jamie McGrigor: The strategy talks about taking positive action if, after two years, you find that the level of applications from certain underrepresented groups in society has not improved. What kind of positive action do you intend to take?

Karen Carlton: It would depend which groups were involved, because the issues for disabled people are quite different from those that women

face, for instance. First of all, I would consider tailoring one of the communication campaigns to the group in question, providing education for the group and perhaps, in some instances, examining the barriers. If we find that applications from women have not increased and that the barrier is that board meetings are set at a time when women cannot attend—some evidence is beginning to come through that that may be the case—do we have to tell the Government that being more flexible in the timing of board meetings will enable more people to apply? It is hard to be specific, not knowing which of the disadvantaged groups might emerge in a couple of years' time, but there will be specific routes that we can take to attract them.

Jamie McGrigor: In your recommendations on confidence and capacity, you propose that a centre of expertise be established. How will that improve the effectiveness and efficiency of the public appointments process? How will it measure its success in encouraging greater diversity in applications? Will it be more effective than the former public appointments team?

Karen Carlton: The answer to your last question must be yes and the answer to the first two will probably tell you why.

You ask why a centre of expertise would improve the current situation. As I mentioned, the current situation is that disparate groups of fairly junior civil servants in each directorate prepare the publicity material and administer the public appointments process. Many of them come to the process without any training or education on it, are provided with a 251-page guidance document, work their way through it from beginning to end, just get it right and then move on to a different job. The turnover at that level is high and the professionalism that is demonstrated is not as high as it would be in a central team, because there has been no education or training. You will see that I recommend not only a central team, but a team of expertise that is staffed by people with real experience in recruitment, selection and diversity. That expertise currently sits within the Government's human resources department.

You ask how the centre of expertise would measure its success. That takes us back to your earlier point about monitoring forms. Different statistics will be requested and the centre will instantly be able to monitor the impact of a particular publicity campaign, for example. If all that information sits in a central team, it will be easier to use it across the Government. For example, if somebody is trying to attract applicants from a particular group, the centre could tell them the avenues through which they would be likely to attract people of that type because that knowledge will be in the information bank.

Would it be more successful? I think that it would, because, as I stated in one of the

appendices to the strategy, the public appointments team that existed had never been involved in appointments. Its members did not understand the role of non-executive directors in quite the same way that the human resources people do. An added dimension and a level of expertise are now being brought into the process that can only enhance the delivery of public appointments.

14:45

Jamie McGrigor: Would this team always stay together, or would it be made up of people doing different jobs?

Karen Carlton: That would really be up to the Government. At the moment, one gentleman is responsible and there are teams below him that look after publicity and collating applications, and measuring applications against the performance criteria. Perhaps that would be the same with public appointments. The team leader was appointed and started the job last month, so we are literally developing this at the moment. I say “we”—I am giving whatever advice I can, but the Government is doing it.

Jamie McGrigor: I turn to “Education and Experience”. You say in the consultation on the strategy that the education programme is a key priority action. Will you explain how that programme would overcome the challenges that are identified in section 4? How would you encourage participants from the underrepresented sections of the community that we have been talking about to take part in the education programme?

Karen Carlton: The communications campaign will be the key way of doing that, as well as providing information on the hub website about the education programme, and making that programme as flexible as possible so that people can attend full or part time, do modules or attend the whole programme, or do it online. First, we need to raise awareness of it, and then we need to provide every opportunity for people to engage.

The education programme itself has not been run before—a similar programme is running in Northern Ireland. One difficulty is that, so far, we have not tapped into transferable skills. There are many people in this country who could sit on the boards of public bodies if they recognised that they have the skills to do so. At the moment, there is a bit of mystique around being a board member—people do not understand what they have to be able to do. If you say, “Have you ever analysed complex issues, planned ahead, made decisions, or reached consensus—over planning applications, for example?” people say, “Oh yes—I do that every day.”

The education programme is designed to help people recognise the skills that they have and develop those that they do not yet have. We are back to the issue of producing what Cathie Craigie referred to earlier: the pool of talent that will be available to make applications in the future.

The Convener: You propose to monitor the strategy’s effectiveness by measuring progress in a number of broad areas, such as the public’s awareness of and confidence in the appointments process. Will you say a few words about why you chose that approach to monitoring, rather than monitoring the effectiveness of each individual action, and how you will be able to determine from doing that the effectiveness of the contribution that each individual makes?

Karen Carlton: That has been the most difficult aspect of the strategy, because we have not had targets in the past. At one point, there was a target for 50 per cent of the total board population of Scotland’s public bodies to be female by the year 2000, but in general we have not had targets of any kind. Determining what targets to set links specifically to my comments about the programme being merit based. We cannot say that there will be an increase in certain board populations, because people will get there entirely on their own merit.

In the general recommendations around awareness and attraction, we have tried to set what are almost overarching, aspirational targets that say, “Let’s get some movement by this stage.” We will carry out individual monitoring—there will be monitoring of applicant statistics—which will link to monitoring the effect of publicity strategies. We will look at the uptake of the education programme and we will do simple things such as asking people where they found out about it. We will consider how widely used the development and shadowing programme is and we will evaluate the training and development that we are recommending on an individual basis.

I am keen to get feedback on the whole strategy, but on targets in particular. I want and hope to find out whether we have got things right and whether it is appropriate to have overarching, aspirational targets that begin to change awareness and culture. As I have said, we will be able to consider the contributions of programmes from specifics that I receive from other monitoring methods.

The Convener: If you analyse the contribution of individual measures and are confident that you have done the right things with respect to the education programme, and then find that applications are improving but there is still no material change in board compositions, do you fear that there will be concern among the wider public that nothing has changed?

Karen Carlton: That would be a concern. I have made it plain that the recommendations that we have just talked about are not the only recommendations that have been made. There is a real need to address the inadvertent stereotyping and bias that are part of the public appointments process. I have evidence of such stereotyping and bias. I have clearly said that we need role descriptions and person specifications for board chairs that make it plain that managing and valuing diversity are important aspects of their roles. Board chairs are involved in the appointments process and I have made it plain that selection panels must have specific appointment-related diversity training to help them become aware of their biases.

You are right. If as a result of the work that I have done, I promote action that increases the number of applicants but board populations remain the same, we will all have failed, but at least we will be able to say where that failure has occurred. We cannot possibly increase the number of applicants without addressing the barriers that still exist in the appointments process.

Marlyn Glen (North East Scotland) (Lab): I want to take things a little further. You said that there was an earlier target for 50 per cent of the total board population of Scotland's public bodies to be female, which is a huge proportion and I applaud that. Now, you are considering a target of 40 per cent of applicants being female, which is a much lower target, and you are still talking about having aspirational targets for the first three years. I do not like to think that you are pulling back all the time, but given the slow turnover of positions, how realistic is that target? We discussed the matter at an Equal Opportunities Committee meeting.

Karen Carlton: We should consider not only the slow turnover of positions, but the uncertainty about what will happen to at least nine or 10 of the public bodies that I currently regulate. For example, I do not know whether boards will have the same number of board members when they merge as they did when there were two separate bodies. Having the same number of board members might be appropriate so that there is more scope to reflect the diversity of the different communities that are served, but the number of board members could be reduced, so there could be less churn and fewer opportunities.

I return to the earlier target that I mentioned. If we consider the population of Scotland, we might see a target of 50 per cent of board members being women as being reasonable, but no specific action was taken to encourage that. Moving from 30 to 40 per cent in two to three years is probably reasonable, because we now have evidence that women face additional barriers to those that men

face when it comes to having the confidence to apply for such positions and the time to attend board meetings and do other board work.

Those issues have almost been put as debating points. I have three consultation events coming up over the next couple of weeks at which members of the public will be asked to talk about the strategy. Whether the figure in question should be higher will be one of the key issues for debate. There is always a danger of setting a high figure that is demotivating. If we said that we want to double the number of female applicants, most people would say that that is not a terribly realistic starting point and would ask how much they could believe in such a target.

Marlyn Glen: The targets are aspirational. How will you claim success if you do not really want to hit the target?

Secondly, if boards combine soon, could that decrease their diversity?

Karen Carlton: There is a danger of that, yes. It will be important to undertake a full skills analysis of the board members of the merged bodies against the requirements of a corporate body that now serves a variety of constituents. For example, does the merging of the Deer Commission with Scottish Natural Heritage mean that SNH now has to deliver to many more people in Scotland who perhaps did not look to it in the past for the kind of support that the Deer Commission provided? Unless there is consideration at an early stage, the bodies could merge and lose some of their diversity. That is something on which I can comment but that I am not able to influence.

I have forgotten your other question.

Marlyn Glen: How will you measure your success?

Karen Carlton: We will measure success by some of the figures in the consultation document. You said that the targets were aspirational and asked what we would do if we did not achieve them. I would be disappointed if we did not. Although I have set targets for three years, in some instances we will seek to measure progress year on year. The targets will have to be developed as we go—this is just a starting point. Although the targets are aspirational, I do not think that they are unrealistic.

Marlyn Glen: Thank you.

The Convener: Hugh O'Donnell has to go to another meeting now. Christina McKelvie has a question.

Christina McKelvie (Central Scotland) (SNP): Good afternoon, Karen. How are you doing?

Karen Carlton: Fine.

Christina McKelvie: You have just spoken about targets. The main purpose of the strategy is to increase the diversity of public appointments; yet, the targets focus on achieving a certain number of applications rather than a certain number of successful candidates. Why were the targets set for a number of applicants rather than of appointments?

Karen Carlton: As I said, it is clear that we have less-than-diverse board populations because the applicants are not, in themselves, diverse. Getting many more, different applicants to come forward will help the eventual board populations to be more diverse.

One of the dangers of saying that we must have more of a particular underrepresented group is that the appointments process somehow becomes diluted to ensure that more people from that category sit on a board. That is the last thing that anyone would want. Currently, the boards that I regulate are responsible for spending £11 billion of public funds, and we must be absolutely sure that the people who are on those boards are there on merit. It is almost as though we can take a horse to water but we cannot make it drink. We can make everyone aware of the vacancies and we can make the application process as straightforward as possible and help people to apply, but once they have applied, it must be up to them to demonstrate their merits sufficiently for the minister to appoint them.

Christina McKelvie: So, it is about creating a broad spread.

Karen Carlton: It is, yes.

The Convener: We have time for a final question from Dave Thompson.

Dave Thompson: Section 1.8 of the consultation document states:

"A representative of the public body, usually the chair, sits on the selection panel, along with a senior Scottish Government official and an OCPAS Assessor."

It is fine and well to get more people to apply, but it is likely that after the strategy is implemented the chairs of the various NDPBs will be the same people who are in those positions now and who have been there for a while—the usual suspects, if you like—who will represent a narrower focus. It is also likely that the senior Scottish Government official will be someone who has been in the job for a long time, who usually works with the NDPB and might know the chair very well. I do not know whether the OCPAS assessor will have a particular interest in the specific NDPB.

It strikes me that if those three people are the ones who decide on who goes forward to the ministers, that represents a potential problem in that they are the usual suspects, who will have

been in post for quite some time. Not necessarily deliberately, but just by inclination, they might weed out the sort of people we want to attract. I wonder how we can get over that problem, given that those folk will be involved in taking forward the process.

15:00

Karen Carlton: That is a good observation. Recruiting in one's own image is a phenomenon not just in the public appointments process, but in recruitment and selection generally. The need for a chair of a public body to have absolute confidence in the person he or she appoints to support them is perfectly understandable and human nature dictates that we will have confidence in people who are like us, so you are absolutely right.

We are aware of the issue and several aspects of the strategy will help to address it, one of which is the bias awareness training, which we insist should happen for all selection panel members. We are genuinely not aware of our biases and much of the time—when we frame the person specification, for example—we honestly do not recognise what we are doing.

I am being extremely firm on directorates that dust off person specifications from last week, last month, last year or five years ago and say that they will do. They will not do any more. The old specifications are not worded in an inclusive way, and we are trying to increase inclusion not just decrease exclusion. Phrases such as "must be able to demonstrate effective corporate governance skills" mean nothing to 95 per cent of the population. That is where we come in—we will not allow such wording. We put person specs through a discrimination check.

You mentioned the OCPAS assessor, but that person will be a member of my team and I have worked hard recently—and another appointment round is coming up—to bring in a diverse range of OCPAS assessors to ensure that we have real expertise in diversity. For example, Elaine Noad, the former Disability Rights Commission commissioner, is now one of my OCPAS assessors. I have brought in a team of people who understand what diversity is and who are at a level to challenge senior civil servants and be quite robust in their conversations with them, which means that sometimes we are not all that popular.

Dave Thompson: Your representative on that panel of three will make it clear if they feel that the other two panellists are not thinking in the way that they should be thinking.

Karen Carlton: Yes.

The Convener: We must conclude the session because we have a number of other items on our

agenda. The evidence that we have taken today will form part of the committee's report to the Parliament. I should have asked you whether there is anything that you want to add to what you have said.

Karen Carlton: I have just one brief point to make. The strategy is a starting point—no one is suggesting that what it contains will change the complexion of the boards of public bodies. It will be monitored, reviewed and updated regularly. Let us just get started.

The Convener: Thank you very much for coming along today.

In order to meet the deadline of 7 March, we will need to consider our draft report at our next meeting, which is on 26 February. Do members agree to consider our draft report on the proposed equality strategy in private at our next meeting?

Members *indicated agreement.*

Audit Committee Inquiry

15:03

The Convener: At our most recent meeting, the committee considered its work programme and agreed to include consideration of a request from the Audit Committee for changes to its title and remit. The Audit Committee made that request because, in its view, the committee's current remit and title did not properly reflect the range and depth of its activities. We agreed to invite the convener of the Audit Committee and the Auditor General for Scotland to give evidence. I welcome to the meeting Hugh Henry and Robert Black, along with Tracey Reilly, who is the clerk to the Audit Committee.

We have a fairly good idea of what the Audit Committee is looking for, but Hugh Henry and Mr Black may wish to make a few opening remarks.

Hugh Henry (Paisley South) (Lab): Thank you, convener. Our proposal comes to you as a result of work that our predecessor committee did in the most recent session of Parliament and the reflection on previous experience that the present Audit Committee undertook in the early days of the current session. The proposal has cross-party support and we think that it is uncontentious.

It was felt strongly that the committee's present title was something of a misnomer, and that to some extent it gave the wrong impression about what the Audit Committee did. If we were to ask anyone what an audit committee does in an organisation, they would probably say that it considers the details of accounts and any discrepancies, and challenges decisions. To a large extent, that is not the function of the Parliament's Audit Committee. We felt that a change of title would better reflect the broad description of the work that the committee undertakes.

We have an interesting situation with our current inquiry into the Western Isles Health Board, in that some of the correspondence that we have received from members of the public and ex-employees of the board reflects the view that the Audit Committee should consider detailed transactions, detailed decisions and exactly how money was spent. Those functions are the responsibility of an internal audit committee, rather than the Audit Committee of the Parliament. We and the previous committee felt that changing our name would better reflect our broader responsibilities.

In relation to the committee's remit, there would be implications if we stuck to the exact letter of the law—as was the case for the previous committee. That would prevent the committee from discussing

some of the work of the Auditor General for Scotland. He consults the committee each session on the Audit Scotland forward programme. Technically speaking, if we did not effect a change in remit, we might not be able to participate in that. Although the draft forward work programme may be published, it is not actually laid before the Parliament, nor is a report made to the Parliament on it. It could be argued that our scrutiny of that programme and of the work of the Auditor General is ultra vires in terms of our remit, because that work is not laid before the Parliament, nor is a report made to it.

Audit Scotland often carries out consultations. A current example is the Government consultation on the formation of the Scottish futures trust. That will have implications for how accounts are audited and how local government and other public bodies conduct themselves. It could have implications for the public audit regime in Scotland. However, technically, because that consultation and any discussion documents that come from the Auditor General are not laid before the Parliament, it could be argued that they lie outwith the committee's remit. If, hypothetically, any amendments were to be made to the Public Finance and Accountability (Scotland) Act 2000 in the future, consideration of any legislative change would arguably also be beyond the committee's remit.

We think that there is a tidying-up job to be done. There is an argument for better reflecting the work that the Audit Committee has done over the past eight years and for better describing its functions and responsibilities through a change of name.

The Convener: Do you wish to add to that, Mr Black?

Mr Robert Black (Auditor General for Scotland): No, but I am happy to help the committee with any questions.

The Convener: It would be helpful if members could indicate whether their questions are for both Hugh Henry and Mr Black, or whether they wish either of them to answer.

Marlyn Glen: You explained, Mr Henry, why the title of the Audit Committee needs to be changed, in your opinion. Going back a bit further, can you give us some background information about why the Audit Committee was given the remit that it got when the Parliament was established?

Hugh Henry: Mr Black might be better placed to throw light on that. The committee's original remit was based on the report of the consultative steering group and, in particular, on the report of the financial issues advisory group. The CSG report recommended that the Audit Committee's remit should be to

"consider financial audit reports commissioned by the Auditor General for Scotland"

and to

"monitor matters of regularity and propriety within the Parliament and Executive."

The report continued:

"In addition, the Audit Committee may, separately or in conjunction with the relevant subject Committee when this is appropriate, consider the findings of value for money studies commissioned by the Auditor General for Scotland."

I think that it was felt at the time that the work of the Executive or Government and the work of the Parliament should be considered objectively, and that we should ensure that the rules were being followed properly and that money was being spent properly. There was a desire to apply the highest possible standards to the use of public funds in Scottish life.

Mr Black: One of the few benefits of getting older is that you have been around a while and can draw on your experience to answer questions such as Marlyn Glen's. As I am sure the committee is aware, the Scotland Act 1998 contains a general requirement that the Scottish Parliament should make arrangements for audit accounts and related matters to be considered by the Parliament. It was for the Parliament to decide how to do that.

I was a member of the financial issues advisory group that fed into the CSG, and our starting point was the well-tried-and-tested system that had been around for many years in Westminster. Committee members are well aware of the powerful Public Accounts Committee. The organisational architecture in the Scottish Parliament was designed very much along the lines of the PAC. The arrangements are very similar indeed. The FIAG did its best to advise the CSG—which in turn advised ministers and Parliament—on how such matters should be organised. Things have worked extremely well.

The PAC is well known as the Public Accounts Committee. Perhaps we should all have thought a little more carefully at the time about what title would be appropriate for a committee of the Scottish Parliament that, as Hugh Henry said, holds public bodies to account for their use of resources. I share the committee's feeling that the Audit Committee's name conveys the sense that the committee looks only into the spending of the Parliament at its own hand. In fact, the committee publicly holds to account all the departments of central Government, and all the health bodies and other public bodies in Scotland. It would therefore be a happy accident if the Scottish committee was also called the PAC, because people understand that sort of language. The committee holds accountable officers to account for the use of

resources. I hope that that background information is helpful.

Jamie McGrigor: I have some questions on the role of the Auditor General and the Accounts Commission. Would the Audit Committee consider it beneficial to have the power to consider reports from the Accounts Commission? If so, why?

Hugh Henry: That question was not considered by the Audit Committee in the previous session of Parliament, and the committee has not discussed it since I became convener. Within its remit, the committee already has the authority to consider, in terms of the public purse, how local authorities operate collectively. However, I do not think that it would be appropriate for the committee to scrutinise each individual council. The present proposals contain no such desire. I feel that the present relationship is the right one and I am aware of no discussion of a need to change it.

Jamie McGrigor: I have another question that is probably for you. The Audit Committee's session 2 legacy paper details how the previous Audit Committee engaged with the Accounts Commission and considered performance and best-value issues in relation to local authorities. Would changing the committee's remit formalise that relationship?

15:15

Hugh Henry: I am not sure. Tracey Reilly, who is the committee's clerk, or Bob Black, who is the Auditor General for Scotland, could probably answer that question better than I could. I was not involved in producing that paper, so I am not sure of all the thinking that influenced it. However, I detect nothing in what has been said that would change or formalise practices.

Tracey Reilly (Scottish Parliament Directorate of Clerking and Reporting): As Hugh Henry says, since 2004, the committee has held an annual evidence session with the Accounts Commission following the commission's publication of its overview of all the local authority audits. That allows the committee to explore local authorities' performance collectively and nationally and to explore best-value issues, on which the Auditor General may wish to expand. However, I detect no desire or need to formalise the relationship or change practice further.

Jamie McGrigor: If a special case occurred that involved one local authority, would it ever be appropriate for the committee to look into that?

Hugh Henry: I am not sure whether it would be within the committee's remit to do that. The committee's interest has focused on the performance of local authorities nationally and not on individual local authorities' performance. We do not intend to change that.

Mr Black: The Accounts Commission was established a long time ago under the Local Government (Scotland) Act 1973. That act is still on the statute book and it charges the Accounts Commission with oversight of the audit of local authorities and with making reports on that. The commission is served by Audit Scotland, for which I am the accountable officer, but reporting work on individual councils goes to the Accounts Commission.

When the new audit arrangements were being put in place for the establishment of the Scottish Parliament, it was felt—I was a leader in the line of argument—that it would be inappropriate for democratically elected councillors to appear before parliamentary committees to be held to account for what they did with their mandate in local authorities. At the least, that might be a recipe for constitutional tension. As a result, the Accounts Commission has remained, although its role has evolved with the introduction of best value and so on.

The Audit Committee's remit extends to matters that relate to the laid accounts of public bodies; that does not include local authorities, which are covered by separate legislation, so the committee may statutorily consider only accounts that are laid by the Scottish ministers and reports that I make on value for money. That establishes the committee's remit. I understand that nothing in the proposals will alter any of that, so the fundamental building blocks will remain the same.

The local government overview report is prepared by Audit Scotland on the Accounts Commission's behalf. As the Audit Committee's convener mentioned, that report considers the overall use of resources and performance in local government. Almost as a courtesy and an administrative convenience, a conversation takes place every year between the committee and the Accounts Commission's chair on the major issues in that report, but that is intended more to promote awareness of the significant issues.

As committee members may well know, Audit Scotland issues in my name a regular flow of reports that the Audit Committee considers and which relate to how well local government is doing on, for example, delivering free personal care, to mention a current issue. It is perfectly appropriate for the committee to consider in the round how such a policy is working, but it would be inappropriate for that committee to call before it a local authority about whose performance concern was felt. The Accounts Commission would handle that.

Jamie McGrigor: I think that I understand. Are you saying that it would be inappropriate for the committee to consider an Accounts Commission report on a local authority?

Hugh Henry: Yes; in an individual case, it would be. For example, there have been occasions when local authority reports have not been signed off. A recent example concerns Inverclyde; for something like three years in a row, there were concerns about the local authority's accounts, but it would not be for the Audit Committee to call in that authority and question it on its performance. That would not be appropriate.

Jamie McGrigor: Would you refer it to the Accounts Commission?

Hugh Henry: No. The Accounts Commission has a separate function with regard to a specific local authority, and it exercises that function on the basis of the statutory powers to which Robert Black referred. It is not for the Audit Committee to get involved in that.

Jamie McGrigor: Okay.

My final question is for the Auditor General. If the proposed changes go ahead, what effect might there be on Audit Scotland, given that it supports the work of both the Auditor General for Scotland and the Accounts Commission?

Mr Black: There would be no material effect on the work that we do. It is as simple as that.

The Convener: I skipped over a question that Dave Thompson was going to ask, although it may have been answered, at least in part, by the Auditor General's previous answer.

Dave Thompson: Mr Henry, your letter mentions the need to

"clarify that the committee is entitled to consider policy and legislation on wider public audit issues".

You specify two areas as examples—scrutiny of public finance under the Public Finance and Accountability (Scotland) Act 2000, and

"matters relating to the format of the accounts of the Scottish Government."

Those are outwith your remit, but you want them to be pulled in. Can you give us some other examples of issues that the committee would want to consider, or which it feels that it should consider but cannot at present?

Hugh Henry: I gave them earlier, but I will repeat them.

First, during each session, the Auditor General consults the committee on Audit Scotland's forward work programme. Technically, that could be beyond the committee's remit because the draft forward work programme is not laid before the Parliament, nor is a report made to the Parliament on it. It could therefore be argued that the committee should not do that, but I think that it is in the interests of the Parliament and the public for

the Audit Committee to discuss the forward programme with the Auditor General.

The second example is the committee's ability to engage with Audit Scotland on any consultations that it has undertaken. The specific example that was mentioned was the current Government consultation on the formation of the Scottish futures trust, which could have significant implications for the audit function. Again, given that Audit Scotland consultations are published but not laid before Parliament, it could be argued that it is outwith the Audit Committee's remit to reflect on what Audit Scotland is consulting on.

Thirdly, there was the hypothetical example about any future changes to the Public Finance and Accountability (Scotland) Act 2000 that might preclude the committee from making any consideration of them.

Dave Thompson: That is it—you want to extend the committee's remit to cover those three issues. If the remit were to be changed, would it not allow the committee to cover other issues outwith those three?

Hugh Henry: Such as?

Dave Thompson: I do not know; that is why I asked. I wonder whether the change would allow the committee to look into all sorts of other issues that we have not thought of but which the committee might have thought of. Are you saying that you want the committee's remit to be changed to cover those three issues?

Hugh Henry: You asked what matters we might consider and I gave three examples. We are not seeking to change the remit so that it says that the committee will consider those three matters. The danger of being prescriptive in the remit is that we would end up with a detailed list of what the committee covers.

We are not proposing hugely to alter the way in which the committee works. It is clear from our work programme that the committee continues to work in the way that it has done in the past. However, I cannot tell you what might come up in the future. In 18 months' time, something might come up that you or I had not anticipated.

Mr Black: If it would help, I can give an example of something that I would almost certainly want to take to the Audit Committee for consultation. I am thinking of the introduction of international financial reporting standards, which will be a duty on all public bodies. The issue is technical and I am sure that the committee does not want to go into it, but it could have significant implications for how we do auditing and how we report to the Parliament through the Audit Committee. A degree of formality should be reflected in the committee's powers, to allow it to receive a discussion paper

from me on that topic, so that it can reflect on the matter and perhaps prepare a paper for the Finance Committee, which might be the lead committee in that regard.

I could give examples of other matters that come up from time to time, such as the audit of private finance initiative contracts.

Dave Thompson: I was not suggesting that the remit be prescriptive; I just wondered what other areas the committee might consider and how wide ranging it might be when it gets its wings.

The Convener: Dave Thompson's question reflected the committee's concern to get a feel for how the committee's remit might be extended. We do not want to be overly prescriptive, but we must keep an eye on the rights of other bodies and the remit that is allowed.

What is the Audit Committee's relationship with the Scottish Commission for Public Audit? Might the proposed change impact on the commission or create an overlap of responsibilities?

Hugh Henry: I do not think so. If anything, the change would help to clarify the relationship between the Audit Committee and the SCPA, by making clear that the Audit Committee is responsible for considering wider public audit issues. As you know, the SCPA is not a formal parliamentary committee and its main area of responsibility is the examination of Audit Scotland's proposals for the use of resources. The SCPA does not do a full internal audit, but it considers how Audit Scotland is working, whereas the Audit Committee is responsible for considering the work that Audit Scotland produces and its wider implications. There would be no overlap.

Cathie Craigie: My memory is as long as Mr Black's is and I remember the early days of the Parliament. We wanted to get things right but to leave open the possibility of making changes.

I want to ask about the Audit Committee's relationship with other parliamentary committees. Is there a role for the Audit Committee in post-legislative scrutiny on value for money? If so, are you content that the potential for overlap with the Finance Committee could be managed to ensure that there was effective scrutiny rather than duplication?

15:30

Hugh Henry: It would be genuinely important to avoid any duplication. There have been—and there will be—occasions on which the Audit Committee initiates work that is ultimately of interest to another committee. That is proper, and should continue. We support the use by subject committees of Auditor General and Audit Committee inquiries, as part of their remit.

There has been some discussion about the value of post-legislative scrutiny. It could be argued that the Parliament, over its first eight years, was overly concerned about making up for lost time, and about initiating and implementing, and that it has not stopped to look back at the implications of what has been done. I do not think that it would be for the Audit Committee to conduct full post-legislative scrutiny of how individual pieces of legislation have impacted on wider society.

However, if there were issues about the use of public resources, that might be a matter for the committee. A current example is that this week the committee will consider a report from the Auditor General on free personal care and its impact. We might consider the implications for the public purse of the mental health legislation that we introduced, which was widely hailed as groundbreaking. The Adults with Incapacity (Scotland) Act 2000 was a significant piece of legislation, but what are its financial implications? Are the resources being accounted for? How are bodies coping with the impact of the legislation? It would not be for the Audit Committee to consider the detail of the 2000 act to see what it does in relation to the rights of the individual, but if there are financial implications it may not be a bad thing for the committee to comment at some point, as the Auditor General reports.

Cathie Craigie: Could the Audit Committee consider thematic issues without changing its remit?

Hugh Henry: No. As I said in response to Dave Thompson, if the committee has to stick specifically to reports that are made to or laid before Parliament, it cannot do anything like that. It would be wrong to suggest that any change would mean that we could ditch anything that has been done over the past years, and just undertake thematic inquiries. The pressure of the work that comes through from the Auditor General and Audit Scotland is such that there is not always a lot of time to consider other issues. However, from time to time it might be important to consider something in a broader sense.

Christina McKelvie: My question is probably for Mr Henry. How do you see the Audit Committee maintaining its independence from Government, and how can it maintain the neutrality of its work?

Hugh Henry: One of the important things that is built into the rules is the requirement that the convener of the Audit Committee must not be a member of any party that is in government. Beyond that, you would have to rely on committee members. We all engage in party politics, both in and outwith committees. However, one of the strengths of the Parliament since its inception has been the fact that members have taken the

committee's work and their responsibilities as committee members seriously. I suspect that that will continue, regardless of party loyalty or allegiance.

Mr Black: I have worked closely with the Audit Committee since the Parliament was created. I say confidently to this committee that there has never been an occasion on which the Audit Committee has become involved inappropriately in party-political or policy issues. It fulfils the extremely important role of holding the accountable officers and chief executives who spend budgets to account for the proper use of resources. It has never crossed the boundary inappropriately, and I can envisage no circumstance in which it would.

The Convener: That concludes our questions. Thank you for coming along. We will see where the matter goes from here. I hope that members found that evidence helpful in coming to a view on what action to take. We will consider the issue further at a future meeting. I ask members to note paper SPPA/S3/08/2/2, which was issued with the agenda and indicates that we await a response from the Conveners Group. I ask members to agree to consider in private at future meetings our approach to the proposals and any draft reports.

Members *indicated agreement.*

Code of Conduct

15:36

The Convener: The third item on today's agenda is consideration of written evidence that has been received from stakeholders and interested parties in response to the committee's review of section 8 of the code of conduct. I thank all those who have submitted written evidence to the committee. Their responses have provided us with a useful base of evidence for consideration. We also received an MSP response from Lewis Macdonald. It arrived slightly after the deadline, but I have agreed to accept it.

We received four responses to the open call for evidence. Members will recall that, in addition, we sought the views of a number of stakeholders, including the Scottish Parliamentary Standards Commissioner and the Scottish Public Services Ombudsman, both of whom have provided us with written responses. As the standards commissioner has previously considered complaints of the type that are made under section 8, his views are especially helpful.

I ask members to note that one of the respondents has requested that his or her submission

"remain, for as long as possible, anonymous".

The Parliament's policy on the treatment of written evidence by committees makes it clear that it is for each committee to decide in each case whether to accept evidence that is submitted on condition that it is published anonymously. I draw members' attention to paragraph 7 of paper SPPA/S3/08/2/3, which sets out the respondent's reasons for requesting anonymity. Do members wish to comment on the request?

Cathie Craigie: I am of the view that if anyone wants to give evidence to the committee, we should have their name.

The Convener: So submissions should not be anonymous.

Cathie Craigie: If we are to be open and transparent, submissions should not be anonymous.

Jamie McGrigor: It is a shame that we cannot see the submission, but I agree with Cathie Craigie.

Marlyn Glen: I go along with what has been said.

Jamie McGrigor: If we accept anonymous submissions, anyone will be able to send in anything.

Cathie Craigie: Someone who is in a position to give us valuable information may be concerned that doing so will affect their job, but in this case the respondent is saying only, "Ah hae ma reasons; Ah hae ma doots." That is not acceptable.

The Convener: I am quite relaxed about the matter, but I am cautious about setting a precedent that others will seek to follow. Do we agree not to accept the evidence on condition that it remains anonymous? The clerks will inform the individual concerned of our decision, so that they have the chance to resubmit their evidence, but not on an anonymous basis.

Members indicated agreement.

Jamie McGrigor: Our papers say that the person has requested to remain anonymous for "as long as possible". It will be his or her decision whether to—

The Convener: We will ask him or her whether he or she wants to remain anonymous.

As a result of our decision, the submission will not form part of the written evidence unless, of course, the person gets back to us to say that they no longer wish to remain anonymous. The respondent will be notified of the committee's decision.

I invite members to comment on the responses and to say what broad conclusions they might have drawn.

A number of new responses have provided a counterpoint to the bulk of the responses, which expressed views that I admit I shared. The responses that we have received from the public and various bodies have provided some balance to the picture.

Cathie Craigie: The Scottish Parliamentary Standards Commissioner's response was extremely good. He has been at the coalface of dealing with complaints, so we can trust that his views are based on experience.

The Scottish Parliament information centre and the clerks have provided us with information on the practices in other Parliaments. When we come to write our report, we will need to reflect on the procedures that have been adopted elsewhere.

Jamie McGrigor: On the point about electoral recourse, it is important to remember that, in a sense, regional members do not go through elections.

I agree with what the Scottish Parliamentary Standards Commissioner says in the first paragraph of his submission. In my experience, one constituent might feel that an MSP is doing a wonderful job while another might feel exactly the opposite. As long as an MSP is making themselves

accessible and is not breaking any rules that are set by the Parliament, that is all that can be asked for, in the overall picture.

Marlyn Glen: In answer to question 5, which asks how detailed the complaints should have to be, the Scottish Public Services Ombudsman says:

"experience suggests that an absolute requirement to provide full information at the outset can discourage complainants."

I am not saying that we are trying to encourage complainants particularly, but we should note that requiring an absolutely full report to begin with might put some people off.

The Convener: That is a fair point. The SPSO has a pro forma that makes the process fairly easy, but I do not think that it would ever disbar someone for not having full information; rather, it would ask for more information.

Dave Thompson: The Scottish Parliamentary Standards Commissioner notes that section 8.2.1 says:

"The wishes of constituents and/or the interests of a constituency or locality are of paramount importance."

He also says that section 8.3.1 makes it clear that section 8.2.1 relates to which MSP the constituent would be dealing with, rather than stating that an MSP must take a constituent's case on.

The standards commissioner covered a number of other helpful issues in his submission. He quoted from his annual report for 2004-05. He obviously feels that his position was set up to detect corruption, encourage openness and deal with financial issues rather than to police the quality and quantity of members' services to constituents. Those are two powerful points.

15:45

The Convener: As you and Cathie Craigie say, the fact that he is the one making those points adds weight to them, given his experience.

Cathie Craigie: I have a comment on one of the other responses, from Andrew McCabe. I do not want to go into it in detail, but it raises a point about members' responsibility to give factual accounts. Generally, the Presiding Officer or the convener of a committee is responsible for the conduct of a meeting, but not for whether a member makes an accurate or inaccurate statement. We might want to give back benchers, conveners and the Presiding Officer a bit of protection. Would the fact that the gentleman has raised the matter with the committee allow us to consider it in a wee bit more detail?

Christina McKelvie: I roughly agree with that. The only problem is that the case to which you

refer is quite emotional; there is a strong emotional investment in it and we walk a thin line. It is a matter of a person's interpretation of a situation. Somebody could say that something is inaccurate but, if we ask the person who gives the evidence to produce accurate information, we must ask the person who counters it to give accurate information that actually counters the evidence. It is a grey area and a thin line.

The Convener: The problem is where it would lead us if we were to look into such an issue. It is a he-said-she-said situation. It can often be a matter of opinion unless it is proven that something that was said was factually inaccurate. In that case, one would hope that pressure to retract or amend what was said would build up on the person, whether through the media or elsewhere. We can take that into account in future, because this is not the end of the process. In future, we will ensure—as we have done today—that we do not go into any detail on any allegations in responses because there are procedures for dealing with those that we would not want to circumvent.

I draw members' attention to the fact that we intend to take evidence on section 8 of the code at our meetings on 26 February and 18 March. It would be helpful if we could have a discussion in private about the key themes that arise from those evidence-taking sessions at the end of each of those meetings. That would inform our draft report and, in the case of the 26 February meeting, help us to identify key areas of questioning for the meeting with the business managers on 18 March. Did members follow that? Are we agreed to meet in private at the end of the committee meetings on 26 February and 18 March?

Members indicated agreement.

The Convener: As members will recall, we agreed at our last meeting to invite the business managers and the Minister for Parliamentary Business to give evidence to the committee on its review of section 8. Bruce Crawford, the Minister for Parliamentary Business, has since contacted me to request that Brian Adam give evidence in his place. He states that Brian Adam is better placed to provide the range of views held by Scottish National Party members on section 8. I have agreed to that request. The SNP members of the committee will certainly know that Brian Adam is better placed to give evidence than Bruce Crawford, but I wanted to pass that information on.

We will consider which members we wish to take oral evidence from when we discuss our work programme under item 6.

Decisions on Taking Business in Private

15:49

The Convener: Item 4 is a decision on taking business in private. I seek the committee's approval to take items 5 and 6 in private.

Under item 5, the committee will consider a report from the standards commissioner. Given that it contains confidential information, it would be better to take that report in private. Are we agreed?

Members indicated agreement.

The Convener: Under item 6, the committee is invited to consider its approach to the inquiry into the budget process and from which witnesses it wishes to hear evidence as part of its work programme. It is our normal practice to discuss the committee's approach to its work programme in private. Are we agreed to take that item in private as well?

Members indicated agreement.

15:50

Meeting continued in private until 16:24.

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