

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Tuesday 23 September 2008

Session 3

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE 16th Meeting 2008, Session 3

CONVENER

*Keith Brown (Ochil) (SNP)

DEPUTY CONVENER

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

COMMITTEE MEMBERS

*Robert Brown (Glasgow) (LD)

*Marlyn Glen (North East Scotland) (Lab)

*Jamie McGrigor (Highlands and Islands) (Con)

*Christina McKelvie (Central Scotland) (SNP)

Dave Thompson (Highlands and Islands) (SNP)

COMMITTEE SUBSTITUTES

Trish Godman (West Renfrewshire) (Lab)

Alasdair Morgan (South of Scotland) (SNP)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

Elizabeth Smith (Mid Scotland and Fife) (Con)

*attended

CLERK TO THE COMMITTEE

Gillian Baxendine

SENIOR ASSISTANT CLERKS

Mary Dinsdale

Jane Williams

ASSISTANT CLERK

Catherine Fergusson

LOCATION

Committee Room 5

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Tuesday 23 September 2008

[THE CONVENER *opened the meeting at 15:00*]

Decision on Taking Business in Private

The Convener (Keith Brown): Welcome to the 16th meeting this year of the Standards, Procedures and Public Appointments Committee. As usual, I remind members and everyone else to switch off their mobile phones and BlackBerrys. We have received an apology from Dave Thompson.

I seek the committee's approval to take in private item 3, which is consideration of the committee's draft report on a complaint. The draft report might not reflect the committee's final view, so I propose that we consider it in private. Do members agree to do that?

Members *indicated agreement.*

Complaint

15:00

The Convener: Item 2 is the announcement of our decision at stage 3 on a report by the Scottish Parliamentary Standards Commissioner. The complaint was lodged by Mr Andrew Harlick and was received by the standards commissioner on 26 February 2008. Mr Harlick complained that Wendy Alexander MSP had

"announced that she was being investigated by yourself during one of your earlier investigations which I believe is also a breach of the rules and makes it more difficult for you to carry on fair and impartial investigations."

The standards commissioner concluded that the complaint fell to be considered under paragraphs 9.1.2 and 9.1.4 of the code of conduct for members of the Scottish Parliament. Paragraph 9.1.2 states:

"Members must not disclose, communicate or discuss any complaint or intention to make a complaint to or with members of the press or other media prior to the lodging of the complaint or during Stages 1 and 2 of the procedure for dealing with complaints".

However, paragraph 9.1.4 explains:

"Where, during the period when the restriction in paragraph 9.1.2 applies, any complaint or intention to make a complaint has been publicised in the press or other media without the involvement of the Member who is the subject of the complaint or intended complaint, that Member may issue a brief statement. In doing so, the Member must, so far as possible, avoid discussing details of the complaint or intended complaint."

The commissioner asked the complainant for further clarification of the date of the relevant press release but he did not receive a reply. He explained in his report that he proceeded on the basis that the announcement made by the member to which the complaint referred was the press release that was issued by Wendy Alexander on 1 February 2008, which was headed, "Alexander makes voluntary report to Register of Members' Interests". That was not disputed by the member.

On that basis, the commissioner set out his findings of fact and commented on: the timing of the 1 February press release in relation to media coverage of donations to the member's party leadership campaign and his letter of 31 January, which explained that the complaint against her by Iain Fraser was admissible; whether the statement was brief; and whether the member avoided discussing details of the complaint as far as was possible. The commissioner concluded that Ms Alexander had breached sections 9.1.2 and 9.1.4 of the code of conduct.

Because of the brevity of the complaint and the lack of further clarification on the part of the

complainant, the committee acknowledges that the commissioner had to make judgments about the extent of matters covered by the complaint and about how to progress it. However, the committee considers it important that consideration of complaints should be limited to the specific conduct that has been complained about.

In connection with the complaint, the committee did not agree that all the matters that the commissioner considered in reaching his findings of fact and conclusion fell within the remit of the original complaint. In particular, the committee took the view that the fact that the member was subject to investigation by the standards commissioner following receipt of a complaint was already in the public domain before the member issued the press release in question. The committee did not agree with the commissioner's view that the member had reinserted that information into the public domain after a period in which there had been no reference to it. The committee noted that from December 2007 until the time when the complaint was made, there was considerable press coverage and comment on the donations that had been made to Ms Alexander's party leadership campaign. The committee considered that the distinction drawn by the standards commissioner, which was that the majority of the press coverage that preceded the press release of 1 February related to the Electoral Commission rather than to the standards commissioner's investigation of a complaint, was artificial and unlikely to reflect the public's perception of events.

The Standards, Procedures and Public Appointments Committee considered the standards commissioner's report and agreed that, given the terms of the complaint, which were that the MSP had announced that she was being investigated by the standards commissioner, it was not able to agree with all the commissioner's findings of fact. Given the terms of the complaint, the committee did not agree with the commissioner's conclusion that there had been a breach of the code.

The committee concluded that, given the exceptional media publicity surrounding the donations that were made to Wendy Alexander's party leadership campaign, the press release of 1 February, in so far as it could be said to relate to the complaint under investigation, fell within the exemption provided for in paragraph 9.1.4, and accordingly there was no breach of paragraphs 9.1.2 and 9.1.4 of the code of conduct.

The committee will publish its report in due course.

15:05

Meeting continued in private until 15:13.

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