



The Scottish Parliament
Pàrlamaid na h-Alba

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9th Report (Session 5)

Standards, Procedures and Public Appointments Committee

Comataidh Inbhean, Dòighean-obrach is Cur-an-dreuchd Poblach

Complaint against Rachael Hamilton MSP and Jackson Carlaw MSP



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Standards, Procedures and Public Appointments Committee

The remit of the Standards, Procedures and Public Appointments Committee is to consider and report on—

- (a) the practice and procedures of the Parliament in relation to its business;
- (b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
- (c) the adoption, amendment and application of any Code of Conduct for members; and
- (d) matters relating to public appointments in Scotland; and
- (e) matters relating to the regulation of lobbying.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/standards-committee.aspx>



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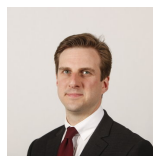
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Emma Harper
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Daniel Johnson
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Alexander Stewart
Scottish Conservative
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Introduction

1. The Committee met on 7 and 14 September 2017 to consider a complaint from Stuart McMillan MSP about Rachael Hamilton MSP and Jackson Carlaw MSP. The complaint alleged that the respondents sought political advantage by making public comments on the Culture, Tourism, Europe and External Relations Committee's 3rd Report of 2017, entitled "EU Migration and EU Citizens' Rights", prior to its formal publication on 6 February 2017, having failed to register any dissent during the meeting when the Report was approved. It was alleged that this amounted to a breach of the Confidentiality Requirements set out in paragraphs 7.4.2., 7.4.7. and 7.4.4 of the Code of Conduct for MSPs (6th Edition). The Code provides that reports, although approved by a committee (and no longer in draft form), should be kept confidential until formal publication, except where the Committee has agreed to prior publication and has waived confidentiality.
2. The Commissioner for Ethical Standards in Public Life investigated the complaint and concluded that, based on the information provided to him: (a) the first respondent, Ms Rachael Hamilton MSP, and (b) the second respondent, Mr Jackson Carlaw MSP, did not breach any provisions of the Code by distributing copies of the 3rd Report of Session 5 approved by the Culture, Tourism, Europe and External Relations Committee or by making public comments in advance of its publication.
3. Annexe B to this report containing the Commissioner's full report and appendices is incorporated in and forms part of this report.

Decisions of the Committee

4. The Committee is unanimous in the decisions reached on the complaint. It agrees with the findings in fact and conclusion of the Commissioner that Rachael Hamilton MSP and Jackson Carlaw MSP did not breach the Code of Conduct.

Conclusion

5. The Committee regards the confidentiality of draft committee reports as an important safeguard against damage to the standing and integrity of committees.
6. The relevant wording in the current Code of Conduct is as follows-
 - ” All drafts of committee reports, and committee reports which, although agreed by a committee and no longer in draft, have not yet been published, should be kept confidential, unless the committee decides otherwise.
 - ” Where a committee member wishes to express dissent from a committee report, the member should only make this public once the committee report has been published in order to avoid disclosing the conclusions of a draft report.
7. While no breach of the Code of Conduct has taken place on this occasion, the Committee wishes to remind all members, by way of this report, of the confidentiality provisions at Section 7 of the Code of Conduct. It is the responsibility of members to ensure that staff supporting them are similarly aware.

Annexe A - Extracts from Minutes

14th Meeting, 2017 (Session 5), Thursday 7 September 2017

Decision on taking business in private: The Committee agreed to take items 5 and 6 in private.

Decision on taking business in private: The Committee agreed to take future consideration of two reports from the Commissioner for Ethical Standards in Public Life in Scotland, and its own draft reports on the complaints, in private at future meetings.

Complaints (in private): The Committee considered two reports from the Commissioner for Ethical Standards in Public Life in Scotland.

15th Meeting, 2017 (Session 5), Thursday 14 September 2017

Complaints (in private): The Committee continued its consideration of two reports from the Commissioner for Ethical Standards in Public Life in Scotland.

Complaints: The Committee announced its decision at Stage 3 on two reports from the Commissioner for Ethical Standards in Public Life in Scotland.

Complaints (in private): The Committee agreed its draft reports.

Annexe B - Report from the Commissioner for Ethical Standards in Public Life in Scotland

[Link to the Report from the Commissioner for Ethical Standards in Public Life in Scotland
\(3.3MB pdf\)](#)

