

STANDARDS COMMITTEE

Tuesday 5 October 1999
(Morning)

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Tuesday 5 October 1999

STANDARDS COMMITTEE
6th Meeting

CONVENER :

*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

COMMITTEE MEMBERS :

*Ms Patricia Ferguson (Glasgow Maryhill) (Lab)
*Karen Gillon (Clydesdale) (Lab)
*Lord James Douglas-Hamilton (Lothians) (Con)
*Mr Adam Ingram (South of Scotland) (SNP)
*Des McNulty (Clydebank and Milngavie) (Lab)
*Tricia Marwick (Mid Scotland and Fife) (SNP)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED :

Alex Neil (Central Scotland) (SNP)

COMMITTEE CLERKS:

Bill Thomson
Vanessa Glynn

ASSISTANT CLERK:

Alastair Goudie

Scottish Parliament

Standards Committee

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(Morning)

[THE CONVENER *opened the public meeting at 10:14*]

The Convener (Mr Mike Rumbles): I am very pleased to welcome the press and public to this meeting. I would also like to welcome Alex Neil MSP, who is in the audience.

I wish to make a statement outlining the committee's understanding of certain events that have taken place since we last met, and to indicate how we now intend to proceed.

The standing orders of the Parliament prohibit any discussion of matters that are sub judice, except with the permission of the Presiding Officer. In view of the petition for judicial review that was lodged by *The Scotsman*, I sought the agreement of the Presiding Officer to allow matters that are the subject of that petition to be discussed by the committee. Yesterday he agreed that members of the Standards Committee might refer in meetings of the committee to those matters. Copies of the Presiding Officer's letter either are being or have been distributed.

On Friday afternoon, The Scotsman Publications Ltd lodged a petition with the Court of Session for judicial review of two decisions, including the decision to meet today in private for careful consideration of matters that had been placed before the committee, with a view to deciding on the terms of an investigation. The matter was continued until 10 am on Monday morning. Lord Johnston then ordered that the petition be formally served and allowed seven days for the Scottish Parliamentary Corporate Body to lodge answers. A date for the hearing of legal arguments is to be fixed.

Lord Johnston expressed the hope that no matters of substance would be considered by the committee in private this morning. Senior counsel for the SPCB indicated that the full tenor of the court's views would be conveyed to the committee. The committee has this morning met briefly in private and taken note of the existence of the proceedings and the observations of Lord Johnston.

The decision to meet in private this morning was taken against the following background. Before this morning, we have met twice to consider matters in closed session. On the first occasion,

we met to consider matters relating to individual MSPs' registrations of interest. The second occasion was on 29 September, when we moved into private session to consider the letter from *The Observer* newspaper covering transcripts of an interview with Beattie Media. No member of the committee had the opportunity properly to consider the letter. As it might contain allegations about individual MSPs, we felt that it was only proper to consider it in private in the first instance.

There will be other occasions when the committee will choose to meet in private. That is perfectly possible under standing orders. I note that committees of this Parliament regularly meet in private to consider housekeeping issues, such as timetabling of and practical arrangements for meetings. They may also meet in private to consider their approach to conducting inquiries, to deliberate about evidence taken, or to consider draft reports. This committee may choose to do likewise.

Committee members have now had the opportunity to consider the written material that was submitted by *The Observer* newspaper. Taking into account all the material that is currently available to the committee, we have decided to view the video tapes and to consider thereafter, in public session, the terms of a possible investigation.

I hope that that clarifies the procedural aspects of our meeting this morning.

We will now move on to the main business. We would like to proceed immediately to view the video tapes. I should warn members, the press and the public that the technical quality of the tape is poor.

Video evidence was shown.

The Convener: I now open the meeting up to discussion.

Tricia Marwick (Mid Scotland and Fife) (SNP): A section of the transcript is missing—the piece after “databases in the office”. Could I impose on staff to listen to the tape again to try to fill in some of the missing words? I got the impression that there was something important there.

The Convener: You are absolutely right. There was a definite difference between the transcript and what we heard on the tape. That shows the usefulness of viewing the tape. I will ensure that we look at the tape in depth again to get a transcript of those words.

Karen Gillon (Clydesdale) (Lab): The video raises some very serious matters, which this committee has a duty to investigate as speedily as possible.

First, we should interview Alex Barr and Kevin

Reid to ask them about the claims that they make on the video.

We should also gather information on diaries—in particular on the diary of Jack McConnell. The transcript raises some serious matters, which it would be improper for this committee not to investigate.

For example, we need to tie up advice to ministers—Sam Galbraith, Henry McLeish, and Jackie Baillie—and the invitations and visits that were mentioned. We must ensure that everything was carried out properly and correctly.

The Convener: Does the rest of the committee agree that an investigation is definitely needed?

Members indicated agreement.

Lord James Douglas-Hamilton (Lothians) (Con): There is a prima facie case for investigation. To encapsulate the video in one sentence: it raises the question of whether a lobby company exercised disproportionate influence over Executive members of the Scottish Parliament and whether there are any grounds for the claims that were made on the video.

Wider issues, which we were going to discuss anyway, are also raised, such as whether there should be regulation of lobbyists, whether there should be a code of conduct for lobbyists, and whether there should be a parliamentary commission on lobbying. Those debates and their resolution will take place anyway, but the immediate concern is to deal with this matter quickly and effectively.

11:15

Tricia Marwick: I want to support the points made by Karen Gillon and Lord James. The transcript and the video throw up serious issues that need to be considered by the committee and the Parliament. The central issue is whether the company had privileged access to ministers and members of the Scottish Parliament. We need to investigate the matter fully.

The committee should examine all the relevant material and hear evidence from everyone who is mentioned in the transcript—all the ministers. We should ask the First Minister to come and speak to us, because he has already conducted his own investigation. We need to find out exactly what that investigation entailed. We need to hear evidence from Beattie Media. I would also like the journalist from *The Observer* who took part in the sting and the editor of *The Observer* to give evidence; I want to know what prompted them to carry out such an inquiry.

There are many issues that we need to tackle. We must also consider the wider question of

lobbying and the Parliament. However, this inquiry hinges on whether a particular company—or any company—has privileged access to ministers and MSPs.

The Convener: Are there any other comments on that?

Des McNulty (Clydebank and Milngavie) (Lab): The important thing for the committee to bear in mind is that the reputation of the Parliament is at stake. We need to ensure that the matter is investigated speedily. I accept Lord James's point that we need to consider the overall issues of regulation, codes of conduct and lobbying.

Allegations have been made and evidence has been placed before us. Having seen the video, it is in the public interest that we act effectively and quickly. Karen has made that point very clear.

Mr Adam Ingram (South of Scotland) (SNP): I agree with all those comments. We have to show some urgency in the matter. You will probably want to discuss the timetable for dealing with the investigation, convener. I agree with Tricia Marwick that we should start with the journalists who brought the matter to our attention in order to flesh out why they took those steps. We could then move on to consider evidence from all the lobbyists that are mentioned in the transcript: Kevin Reid, Alex Barr, Alexandra Thomson, a representative from Apco UK—either the chairman or the managing director—and Gordon Beattie.

The Convener: The common view of the committee is that we should put our general investigation to one side for the moment and concentrate on the Beattie Media issue, examining the matter in depth. We must sort out the terms of the inquiry before we examine the detail; we need a basis on which to proceed.

I have a draft set of suggested terms of reference for the investigation. I will put that before members and invite comments. I propose that we inquire into matters disclosed by material placed before the committee to consider whether that inquiry discloses evidence of breaches of any code that covers the conduct of MSPs, to report on the findings and to consider and report on the standards that ought to be applied to such conduct. What do members think about that proposal? Are we agreed?

Members indicated agreement.

Mr Ingram: Can I clarify which codes apply? We are currently engaged in bringing together a code of conduct for MSPs. However, we need to know which codes apply to this case, particularly in terms of the ministerial code.

The Convener: I am happy to do that. As far as I understand it, according to our standing orders—

I asked for legal advice on the matter last week—the ministerial code applies and that falls within the remit of the committee.

Lord James Douglas-Hamilton: I take it that the wording of the remit makes it quite clear that it is open to us to make recommendations in due course?

The Convener: Indeed. I do not think that this would shut out any options. I took the point to be that the committee needed to clarify whether it would consider the ministerial code; my interpretation of our standing orders is that that is the case.

Des McNulty: I want to raise an issue that relates to the order in which we deal with material. If we accept the idea that we are going to consider evidence of breaches of any codes—that is our function—we must start with Beattie Media, because its comments have generated the investigation.

The Convener: Before we discuss the method of the investigation, I want to be sure that all members are happy with the terms of reference.

Karen Gillon: I think that the terms of reference are adequate, taking into account the need for a speedy resolution of the issue and the greater public interest. That is also in the interests of the Parliament, which must remain paramount, above the party political interests of all members.

The Convener: So we are agreed on the terms of reference and can move on to Des McNulty's point about the method of investigation.

Des McNulty: The real issue is whether there is a substantive breach. Using the transcript, we need to identify the areas in which we feel there might be a breach. That will establish the parameters in which we operate. We can work outwards from that.

I am anxious to call Mr Barr, Mr Reid and Mr Beattie to the committee to ask them to explain what was said. That is the first issue. We can go down various routes after that. I was reasonably happy with Tricia Marwick's list of people to whom we would like to speak. It may turn out that we do not want to speak to everyone, but we should start from the notion that we do. We need to home in on the statements made by Beattie Media employees and the Beattie organisation and take it from there.

Tricia Marwick: I accept that point. We should concentrate on the allegations made by Beattie employees. We also need to find out why the journalists from *The Observer* decided to act as they did. Did they have information that led them to target Beattie Media rather than another company? Why did they do it? Those are the questions that have not yet been answered. By questioning the journalists, members of the

committee might gain a better idea about the direction of the inquiry and what questions they should be asking Beattie Media.

Karen Gillon: I am quite clear from the terms of the inquiry that the substance of our investigation is the material that is before us. Some very serious implications—having seen the tape, I do not know that we could call them allegations—were made on matters relating to the code of conduct of MSPs.

I want to suggest a possible way forward. I do not have any difficulties about who we see first, although I want to see Alex Barr and Kevin Reid as a matter of urgency. Those are the people who have made suggestions. We need to be able to ask them straight out whether they have—or think that they have—any undue influence.

Our primary interest is whether members of the Scottish Parliament have acted in a manner that is unbecoming to their position. I suggest that we consider people in the order in which they appear in the transcript. We should start with Jack McConnell, followed by Sam Galbraith, Henry McLeish, Jackie Baillie and Kenny McAskill. In the intervening time, we should gather all the information relating to ministerial diaries—particularly that of Jack McConnell, and including his private diary. We should also examine the constituency diaries of Sam Galbraith, Henry McLeish and Jackie Baillie to ensure that matters relating to their attendance at particular events mentioned in the transcript were handled properly.

It would be remiss of us not to interview Kenny and give him the opportunity to appear before the committee to give his views. I do not think that there are any particular allegations made against Kenny, but because he is an MSP who is mentioned in the transcript, it would be improper not to invite him to give evidence.

After we have spoken to members of the Scottish Parliament, it might be appropriate for us to hear from Lord MacDonald. There is no obligation, but we should ask for that, just to clarify the Federal Express issue. We need to speak to the journalists from *The Observer*. I would prefer to see the people from Beattie Media first, but the order is up for debate.

Mr Ingram: I agree with Karen that we need to speak to representatives of Beattie Media as a matter of urgency. However, it would be logical first to speak to the journalists who have brought the matter to our attention. We can speak to them on the same day as we speak to the "lobbyists". We can tease out some of the issues that—as Karen says—are implied in the transcript.

When we call witnesses, we are gathering evidence as we go and we should then move on to check some of the material with those people,

such as the special advisers—Brian Fitzpatrick, Chris Winslow and John McLaren—who are mentioned in the transcript. Donald Dewar's head of staff is mentioned and it would be appropriate to talk to him, as well as to Jack McConnell's secretary, Christina Marshall.

We should hear from the journalists first, then the lobbyists, then the staff of MSPs and finally the ministers.

Lord James Douglas-Hamilton: The natural progression should be: first, the journalists who brought the complaint in the first place; secondly, Mr Alex Barr, Mr Gordon Beattie, Mr Reid and—perhaps—Mr Alex Thomson from Beattie Media; thirdly, the staff; finally, the ministers.

There is the issue about the collection of information from the diaries, extracts from correspondence and extracts of invitations. It is competent for this committee to employ an official to collect that evidence on commission, which is what the courts do in civil cases. As this is a quasi-judicial procedure, we do not need to know any commercially confidential information that relates to say, inward investment cases that have nothing to do with this inquiry. It might be harmful to those inward investment possibilities if that information is made public.

It is competent for the committee to appoint somebody to take all relevant extracts from the diaries and submit them to the committee so that they can be considered properly. That might take some time, as there are a great number of diaries and a lot of correspondence to go through.

11:30

Tricia Marwick: We have mentioned many people who we may wish to call before us as witnesses. The committee has the power to ask them to be on oath. Does the committee agree that that should happen?

The Convener: It has been indicated to us that people have said one thing at one stage and something else at another. It would be appropriate to have people—certainly those that are on the video—on oath. Do other members agree?

Members indicated agreement.

The Convener: If time is critical—we all agree that it is—the sequence of witnesses may be a problem. However, we do not know that yet. We should examine why the journalists from *The Observer* did what they did and consider the lobbyists, staff and finally MSPs and ministers.

Karen Gillon: I am not convinced about the staff argument, because no allegations were made against most people. All the transcript says is that somebody “was at my wedding”. A lot of people

were at my wedding. Being at a wedding is not necessarily relevant. I would be happy for us to speak to Christina Marshall, as a specific allegation that we should deal with has been made. The appropriate mechanism is—as Lord James suggested—for somebody to look at the diaries and report back to the committee.

The Convener: I do not think that anyone is suggesting all staff. Is that right?

Tricia Marwick: Specific members of staff are mentioned. The question of how easy they are to contact had come up. Kevin Reid said that the fact that they are all friends of his makes it easy. He said:

“Three or four of those special advisers are close personal friends of mine, because I worked with them in the party. Chris Winslow in particular is a friend. He was at my wedding last month. We are personal friends. I worked for Jack and for Wendy and for Henry and for Donald on a one-to-one basis.”

What he is saying will be the subject of the whole inquiry.

As a result of Kevin Reid's friendships and contacts, he and his company were able to have more privileged access than anybody else. It is appropriate that we call the staff who are named, because we need to examine the relationships involved and whether they gave rise to any preferential treatment.

Des McNulty: I suggest that we decide—along the lines of what has been suggested—that we deal with the evidence from *The Observer* on Beattie Media. That should frame the terrain in which we are operating. We will want to see the ministers. In general, they have indicated that they wish to be seen. Once we have dealt with the first element of the matter, which is Beattie Media, we should look at the order in which we see people. We do not need to discuss where the investigation will go before we have heard from those people.

Tricia Marwick: I agree with Des. It is important that the inquiry starts as quickly as possible. We should not argue about whether it is the journalists from *The Observer* or the people from Beattie Media who come first. It should be left to the officials to try to get both sets of people in front of us, as a matter of urgency. We all feel that we may have to work through the recess in order to get the inquiry on track, but we need to leave the timetabling to the officials. There is no point in saying that we would like Beattie Media or *The Observer* first if we cannot get them. I would like one or other of those groups to come before us on Friday, if the clerks can arrange that. It might not be possible, but the committee needs to get a message out that it wants to investigate the matter openly, honestly and as quickly as possible.

Lord James Douglas-Hamilton: If for any

reason a special adviser cannot take evidence on commission, it is within the powers of the committee to co-opt somebody who can. The necessary information should be collected, whatever it comprises; the committee has the power to organise for that to be done.

The Convener: I would like to seek authority from the Parliamentary Bureau to appoint a special adviser—to support our current team—who could do precisely what Lord James suggests.

I have just been informed that we cannot co-opt anybody on to the committee, but we can request an adviser. I suggest that we seek the authority of the Parliamentary Bureau to appoint a special adviser to the committee to join our team in sifting through the large amount of information that Lord James in particular has indicated will be needed. Does everybody agree?

Members indicated agreement.

The Convener: I will do that.

As for the time scale, there is complete agreement around the table that we move swiftly. Time is critical, but the matter of availability comes in—we have to be reasonable. Either the journalists from *The Observer* and the lobbyists—if we can call them that—could appear before us separately or, ideally, they could appear at the same time. Tricia has suggested that we do that on Friday, as we have the information before us and we have seen the transcripts. We need to move swiftly to question those people in detail. We may be able to announce at the same meeting whether the Parliamentary Bureau has agreed on who will help the team collate all the information.

Ms Patricia Ferguson (Glasgow Maryhill) (Lab): I emphasise that one important word is missing from the summing up, which is that we will do this in public, so that we are clear and everyone understands what we are about.

The Convener: I am glad that you reminded me about that, Patricia, as it seems to be of such interest to the wider public. That is absolutely right. I would like to go on record as reminding the committee, the press and public who are watching that if you look through the previous minutes and the *Official Report*—the equivalent of *Hansard*—you will see that every member of this committee has committed themselves to openness, accountability and accessibility. Those are the themes that run through the committee. We reserve the right to meet in private in exceptional circumstances. This investigation—and certainly the evidence that is gathered—will be in public view. Is that accepted by everybody?

Members indicated agreement.

The Convener: I will ask the Parliamentary

Bureau whether we can appoint a special adviser, the idea being that that person will lead the team in sifting through all the technical information that members have requested. That has been minuted. That sift might take some time, but that individual will present a report to the committee and we will move swiftly to interview anybody who has been suggested. I remind everybody that, although we have already suggested who we want to interview, the list is not exhaustive. We will not be hemmed in by anything that we have decided today. We have to see where the investigation takes us. The point of the investigation is that we want to act quickly, openly and effectively.

Karen Gillon: For that reason, I suggest that we set ourselves a deadline by which we should at least have completed the gathering of evidence, and a second deadline by which we hope to have reported on our findings. We do not want to run on and on and for public confidence to be diminished.

The Convener: It is going to take some time to gather the depth of information—as Lord James mentioned—that we want. We are looking at a time scale of possibly Thursday, but certainly Friday, for the first interviews, establishing a special adviser post—subject to the Parliamentary Bureau's agreement, and launching the investigation.

We should gather the information in over a couple of weeks or so. I suggest that time scale, but I do not want us to be committed to it, as it might take more or less time. As soon as we have the report from the special adviser, we should meet—if necessary—two, three or even four times in the following weeks, to get our report out. My aim is to have the report out by the first week of November. Is everybody happy with that?

Lord James Douglas-Hamilton: It is important that the information, the correspondence and the relevant extracts from the diaries should be before the committee.

The Convener: Indeed, Lord James. So that there is no confusion, let me explain that the purpose of the special adviser leading the clerking team of the Standards Committee into this investigation will be to sift and examine the material and present the material—with the report—to us. I hope that that is clear.

Tricia Marwick: We need to give the special adviser a steer about the kind of material that we wish to be collected. To start that process off, I suggest that we need the diaries, particularly Jack McConnell's. We need to see his constituency diaries, his office diaries and his electronic system.

If we are talking about undue influence for Beattie Media, we need to see all the invitations that have been received, including those that have been accepted and those that have been rejected.

We need to see the advice that was given to other ministers—perhaps by the civil service—before they accepted an invitation. Where did the invitation come from and what were the reasons for it being accepted?

The Convener: I think that we should meet on Friday, regardless of whether we can get the witnesses by that time. We will then know whether we will have a special adviser. The Standards Committee will lead the investigation and the special adviser will support us. It is appropriate that we come to our meeting on Friday with the detail of the guidance that we want to give to the special adviser and the clerking team.

Is everybody clear about the course of action that we have decided?

Members *indicated agreement.*

The Convener: We have a lot of work ahead of us and we want to act quickly. Thank you for coming to this meeting of the Standards Committee.

Meeting closed at 11:45.

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