



OFFICIAL REPORT
AITHISG OIFIGEIL

Standards, Procedures and Public Appointments Committee

Thursday 21 June 2018

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 21 June 2018

CONTENTS

	Col.
Decision on Taking Business in Private	1
Cross-party Group	2
Complaint.....	8

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
14th Meeting 2018, Session 5

CONVENER

*Clare Haughey (Rutherglen) (SNP)

DEPUTY CONVENER

*Patrick Harvie (Glasgow) (Green)

COMMITTEE MEMBERS

*Tom Arthur (Renfrewshire South) (SNP)

*Jamie Halcro Johnston (Highlands and Islands) (Con)

*Tom Mason (North East Scotland) (Con)

*Elaine Smith (Central Scotland) (Lab)

David Torrance (Kirkcaldy) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Ben Macpherson (Edinburgh Northern and Leith) (SNP)

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 21 June 2018

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Clare Haughey): Good morning. I welcome members to the 14th meeting in 2018 of the Standards, Procedures and Public Appointments Committee. We have received apologies from David Torrance.

Agenda item 1 is a decision on whether consideration of the committee's work programme should be taken in private at a future meeting. Do members agree to take that item in private?

Members indicated agreement.

Cross-party Group

09:30

The Convener: Our second item of business is consideration of an application for recognition of the proposed cross-party group on social enterprise. I welcome to the meeting Ben Macpherson, who is convener of the proposed group, and invite him to make an opening statement on the purpose of the group.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): Good morning, colleagues, and thank you for your time.

I was approached by Social Enterprise Scotland a while ago to consider reconvening the proposed cross-party group on social enterprise. I understand from colleagues who were members during the previous parliamentary session that it was a successful and well-attended CPG, and that the only reason that it was not reconvened at the beginning of this parliamentary session was that those who headed it up were no longer members of the Scottish Parliament after the election.

I am MSP for Edinburgh Northern and Leith and I work a lot with social enterprises in my constituency. There are many successful social enterprises operating out of my constituency, and I believe that that is why I was approached to set up the CPG. Working with Social Enterprise Scotland, I reached out to colleagues and now have a diversity of colleagues who are ready to be deputy conveners and CPG members.

Social enterprises, otherwise known as not-for-profit organisations, trade for the common good, strengthen our communities, work to improve people's life chances and help to protect the environment. They empower communities, tackle social problems and are known for their high-quality goods and services; they reduce inequality, lift people out of poverty and create jobs, particularly for people who are at a disadvantage in the standard jobs market. There is definitely a trend in our society at the moment for greater numbers of social enterprises and there are greater numbers of people in business with a social conscience to start such enterprises. Further, consumers increasingly seek out socially responsible products, which helps to drive that growth.

The social enterprise movement is connected to the fairer Scotland and inclusive growth agendas, the real living wage movement and the Scottish business pledge, all of which are important to all political parties in this Parliament. According to the last census, which was done in 2017, social enterprises contribute £2 billion to our economy each year and employ 80,000 people. During that

census, 5,600 social enterprises were identified, 35 per cent of which were located in rural areas. It is important to emphasise that social enterprises do not just operate out of urban Scotland, but play a key part in rural Scotland and its economy. It is also worth emphasising that 64 per cent of Scotland's social enterprises are led by women. It is a key sector for making sure that we have as inclusive an economy as possible, and the drive in the growth of social enterprises is led by women.

I could say much more, but I am sure that members have questions about the strength of the social enterprise movement and about why it is important that the movement should have a voice here in Parliament. In the submission to the committee, I detailed the purpose of the CPG, which I will re-emphasise now. It is to give

“social entrepreneurs a strong, united voice”

here in the Parliament—the centre of Scottish decision making—in order to influence policy-making by the Scottish Government, and to raise awareness among MSPs, the public and the media. It is to demonstrate the wide-ranging social impacts of social enterprises and their contribution to the economy. Further, it is to tell inspiring stories about the human, environmental and social impacts of social enterprises.

Importantly, the CPG will make sure that it has real purpose by promoting the growth and success of social enterprises in communities and their role in helping to deliver and design public services, and it will help to boost further the private sector use of social enterprise models.

In establishing the CPG, there is a determination to assist the sector, which is growing, and to promote the benefits that it offers to all communities in Scotland. The group will work with other CPGs that have remits related to the social enterprise movement or that would benefit from collaboration on that issue. I have identified a number of them on the registration form. I hope that that provides a synopsis of the ambition and purpose of the group, the need for it, and why it would be a purposeful and positive CPG to re-establish in the Scottish Parliament.

The Convener: Thank you, Ben. Do committee members have any questions?

Tom Mason (North East Scotland) (Con): We are now two years into this session of Parliament. Why has it taken two years to re-establish something that you say was so successful?

Ben Macpherson: That is a good question. I was approached last year about re-establishing the group. I do not know whether there were efforts by Social Enterprise Scotland in the year before that to identify other members of the Scottish Parliament to take it forward. However, I

was at the annual general meeting of Social Enterprise Scotland yesterday and I can assure you that there is strong ambition in the sector to re-establish the group here in the Parliament, a recognition of what the group gave to the sector in the previous session and an ambition to re-establish that.

Some of the time was needed to make sure that MSPs from across the parties engaged with the group. If the group is approved by the committee, I will also seek to recruit more MSPs to it. The five MSPs who are currently signed up represent a good spread not just of political parties but of the different aspects of our society, with rural and urban representation, and they have different backgrounds and interests in the economy and innovation.

Tom Mason: Social enterprise is a general heading; is it too wide to be effective?

Ben Macpherson: One of the challenges around social business in general is that the idea of establishing social business models is quite new to a lot of entrepreneurs in the United Kingdom. I know that from being a commercial solicitor before I was elected. The new model of a community interest company was established by the UK Government a number of years ago and that is gaining some traction.

The breadth of the term “social enterprise” and its inclusive nature is about how we utilise what is generally private business activity for the common good. In our economy and in company law there is no single way of doing that at the moment. There are some community interest companies, but most companies operating in the social enterprise sector at the moment are private limited companies. It is important that they are included and acknowledged as being key to the inclusive growth agenda that this Parliament supports and is absolutely behind, in my experience.

I know that there is a co-operatives CPG, for example, which has a very specific focus. There is also a credit unions CPG; many credit unions are social enterprises, but without a social enterprise CPG we are not able to encapsulate the wider private sector ambition and growth in our economy, to give it a voice and the ability to influence Government and raise more awareness of what those companies are doing, and to increase the acceleration and momentum that there is in the sector at the moment.

Many committee members will be aware of Social Bite, which is a social business that is limited by guarantee. It is not a proposed member of the group, although it could become a member; I use it as an example because it is well known. If no CPG on social enterprise was created, there

would be no place for Social Bite in the existing CPGs.

Jamie Halcro Johnston (Highlands and Islands) (Con): Your application lists organisations that cover the Highlands and Islands, and I am sure that you appreciate the difficulties of travelling to Edinburgh for those who are involved in organisations on the islands in particular. How will you encourage social enterprises and those who are interested in them to attend meetings and be involved if they are based on the islands?

Ben Macpherson: That is an important question. The social enterprise census noted that

“The Highlands and Islands ... is ... very significant in terms of the density of social enterprises located there ... 21% of Scotland’s social enterprises”

are in the Highlands and Islands, which have only 9 per cent of the population. I am cognisant of that.

The initial membership base that Social Enterprise Scotland has proposed for the CPG includes New Start Highland and other organisations in the Highlands and Islands. We could use technology to ensure that the group was inclusive—for example, we could use videoconferencing to include those in the Highlands and Islands who could not attend meetings in person.

Jamie Halcro Johnston: If the group gets the go-ahead, when the members are announced, it would be worth contacting them about ways in which they can be involved.

Ben Macpherson: Absolutely. I would ensure that the secretariat made clear our position and reached out to as many social enterprises in the Highlands and Islands as possible, particularly given the figure that I cited, which shows how popular such a model is there.

Elaine Smith (Central Scotland) (Lab): You say in your application that there would be a bit of a crossover with the CPG on co-operatives, the CPG on credit unions and the CPG on housing. My question is about a practical point. You talk about having joint meetings with those other CPGs, which would make sense, but your application says:

“The previous ... CPG was highly successful with a large number of attendees (around 50 to 80 at meetings)”.

That is a large number to manage, especially if you hope to have joint meetings, too. Would the practicalities mean that the number of attendees would have to be limited?

Ben Macpherson: I was not an MSP when the previous CPG operated, but that is a good question about how we would ensure that the

membership represented the social enterprise movement and those who have an interest in growing the sector, while ensuring that meetings did not become unwieldy and impractical. Social Enterprise Scotland has been cognisant of that in relation to the proposed social enterprise members of the CPG.

I am keen to think about how the proposed CPG would collaborate. I am a member of the CPG on housing and the CPG on credit unions. Given the momentum behind the inclusive growth agenda and how important that is to the whole of Scotland and to how we develop our economy, there might be an opportunity during the parliamentary session to bring together all the CPGs that operate in that area for a joint meeting on what we are all doing to advance inclusive growth and what we can do together to effect policy change and make representations to the Government. I appreciate that the committee rooms probably would not be big enough for such a meeting, so we would need to look at the practicalities of doing that. Perhaps each CPG could send a delegation.

Elaine Smith: I wondered whether you would have to book the chamber.

Ben Macpherson: That might be an interesting proposal.

Elaine Smith: You raise a more general issue. CPGs are supposed to inform members, and their meetings are not public, although some CPG meetings blur the lines. Would you be clear about your CPG’s remit?

Ben Macpherson: Absolutely. The CPG would not be just a good way for Social Enterprise Scotland to get people together for a discussion. In my membership of current CPGs and in the establishment of the proposed CPG, I am clear that we must be solution focused in how we inform members and that we must use meetings as a mechanism to relay messages to the Government, affect policy and reach out to the private sector if that is appropriate.

The Convener: I thank Ben Macpherson for coming along. The committee will consider whether to approve the application for recognition under agenda item 3 and will inform him of its decision.

Ben Macpherson: Thank you for your time and your questions.

09:45

Meeting suspended.

09:46

On resuming—

The Convener: Item 3 is consideration of whether to accord recognition to the proposed cross-party group on social enterprise. Members have no comments. Are we content to approve the application for the cross-party group?

Members *indicated agreement.*

The Convener: The committee will move into private session to consider item 4. Once that consideration is complete, the committee will move back into public session.

09:46

Meeting continued in private.

10:55

Meeting continued in public.

Complaint

The Convener: We move to agenda item 5. The committee has been considering a complaint about a member of the Scottish Parliament and I will now read out a statement that sets out its findings.

The committee has considered a report from the Commissioner for Ethical Standards in Public Life in Scotland on a complaint from James Dornan MSP about Mark McDonald MSP. The complaint was initially made to the committee in March this year and we agreed to refer it to the commissioner for investigation, given his role in independently establishing the facts of such complaints. In our direction to the commissioner, we asked that he take into account any information that might relate to the complaint.

The complaint related to the conduct of Mark McDonald towards a member of James Dornan's staff. In examining information relating to the complaint, the commissioner was made aware of Mark McDonald's conduct towards another staff member and decided that it was relevant to the complaint under consideration.

The committee is unanimous in the decisions that it has reached on the complaint. First, it agrees with the commissioner's findings in fact and conclusion that Mark McDonald failed to treat one witness with respect, that his conduct towards her involved sexual harassment and that he also failed to treat a second witness with respect in relation to a financial matter. The committee agrees with the commissioner's finding that both behaviours were in breach of the "Code of Conduct for Members of the Scottish Parliament".

Secondly, the committee considers that the breaches justify the imposition of sanctions on Mark McDonald. The final decision on whether to issue sanctions lies with the Parliament. The committee considered the full range of sanctions available to the Parliament and agreed that the sanctions to be imposed should send a clear signal about the seriousness of Mark McDonald's conduct but should not have a financial impact on his staff nor unduly impact on his ability to represent his constituents.

I propose that the committee recommend in its report that the Parliament exclude Mark McDonald from proceedings of the Parliament for a period of one month, which will not overlap with any period of recess; withdraw his salary for a period of one month to coincide with his exclusion from proceedings of the Parliament; withdraw the right of access as a member to the Holyrood

parliamentary complex for the period of one month to coincide with his exclusion from the proceedings of the Parliament; and withdraw his rights to any representational, ceremonial and related privileges until dissolution.

I invite the committee to agree to that proposal.

Members indicated agreement.

The Convener: Although the committee's role in the complaints process is specifically focused on considering the commissioner's findings in fact and conclusion, I will also comment more generally on the nature of the complaint.

The zero tolerance statement agreed by the Presiding Officer, the chief executive and the party leaders last week provides clear definitions of sexist behaviour and sexual harassment and makes it clear that those behaviours do not belong in the Parliament. The committee fully endorses that statement. In our recent report on sexual harassment and inappropriate behaviour, we identified a number of potential areas in which the code of conduct could be strengthened and we will pursue those revisions in the coming parliamentary year.

I will also comment on the confidentiality requirements in the complaints process, which are in the code of conduct for MSPs. We previously expressed our disappointment that James Dornan shared details of the complaint with the media. It is an explicit provision in the code of conduct that

"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".

In addition, before we had seen the commissioner's report, it appears that its findings were shared with the media, further undermining the confidentiality of the process.

As I said in my initial statement on the matter in March, proper processes must be observed to ensure a robust outcome. The commissioner and the committee must be able carry out their work without any external interference. We consider it unacceptable that the confidentiality requirements have been flouted more than once during the complaint. That is disrespectful to the process and the people involved, as well as to the committee and the Parliament.

Today's decision relates solely to the complaint regarding Mark McDonald, but the committee will return to the issue of confidentiality. Full details of the complaint, and the commissioner's investigation of it, will be included in the committee's report, which will be published later this afternoon. Until it is published, the report remains confidential and neither I nor any other

member of the committee will make any further comment.

We now move back into private session.

11:00

Meeting continued in private until 11:18.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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