



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Standards, Procedures and Public Appointments Committee

Thursday 23 May 2024

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
14th Meeting 2024, Session 6

CONVENER

*Martin Whitfield (South Scotland) (Lab)

COMMITTEE MEMBERS

*Jackie Dunbar (Aberdeen Donside) (SNP)

*Oliver Mundell (Dumfriesshire) (Con)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Alasdair Allan (Na h-Eileanan an Iar) (SNP)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 23 May 2024

[The Convener opened the meeting at 10:18]

Complaint

The Convener (Martin Whitfield): Good morning. I would like to make a statement about the decision of the Standards, Procedures and Public Appointments Committee on a report from the Scottish Parliamentary Corporate Body on Michael Matheson MSP.

The Standards, Procedures and Public Appointments Committee has carefully considered a report from the SPCB on its consideration of complaints regarding the mobile data charges incurred by Michael Matheson MSP in the period between 28 December 2022 and 3 January 2023. Following an investigation, the SPCB found that Mr Matheson had breached sections 7.3 and 7.4 of the code of conduct for MSPs. The SPCB's decisions are set out in its report, which will be published with the committee's report and the minute of its meeting on 14 March 2024.

In summary, the SPCB decided that Mr Matheson had made an improper claim under the reimbursement of members' expenses scheme, because it was made in respect of a purpose that was not permitted under the scheme. In making an improper claim, Mr Matheson made an improper use of the scheme, in breach of section 7.4 of the code of conduct for MSPs.

The SPCB also found that, during the relevant period, Mr Matheson had failed to ensure that his parliamentary iPad hotspot facility was not used for non-parliamentary purposes to a significant extent. Mr Matheson therefore did not abide by the MSPs' use of parliamentary resources policy, in breach of section 7.3 of the code of conduct for MSPs.

Further, it was found that Mr Matheson made improper use of the expenses scheme, in breach of section 7.4 of the code of conduct, through his failure to undertake a sufficient level of inquiry before submitting the claim, which was not in accordance with the scheme's principles, and his failure to inform the SPCB during the period from 9 to 16 November 2023 that he was aware that the assurance that he had provided that the claim was made for a purpose permitted under the scheme was unsound, which was not in accordance with the scheme's principles.

Finally, the SPCB found that Mr Matheson failed to abide by the MSPs' expenses policy, amounting to a breach of section 7.3 of the code.

In reaching a view on the question of whether to recommend a sanction, the committee invited Mr Matheson to make both written and in-person representations, and it decided to consider those in private, as it would usually do in considering a report from the Ethical Standards Commissioner at stage 3 of the complaints process that is set out in the guidance on the code of conduct.

The committee's consideration has centred around four matters: the role played by an outdated SIM card in the level of charges being incurred; Mr Matheson's motivation in authorising the allocation of £3,000 from his office cost allowance provision towards the overall cost of the bill, noting that the total charges for data use were met from parliamentary funds; the circumstances in which mobile data was used, and the member's awareness of potential access to the device and hotspot; and the Nolan principles, and the reimbursement of members' expenses scheme.

The issues under consideration by the committee have, ultimately, been about the use of public finances, the degree of trust that there must be—both in and outside the Parliament—that those funds are used only for legitimate purposes, and the ethical standards with which members must conduct themselves in all matters, as articulated in the Nolan principles and the code of conduct.

In considering the question of sanctions, the committee has given full consideration to the SPCB's report and to Mr Matheson's representations.

In relation to the replacement of the SIM card in Mr Matheson's iPad, from late 2020, the Parliament was in the process of switching from EE to Vodafone as its mobile supplier. Mr Matheson had been contacted by the Parliament's business and information technology department in 2021 in relation to seeking to arrange for the replacement of his iPad SIM card. BIT contacted Mr Matheson in relation to that in February and October 2021, and an appointment was arranged for December 2021 for the SIM card to be replaced. That particular appointment did not go ahead. Neither the SPCB's report nor Mr Matheson confirmed the reasons for that.

In February 2022, Mr Matheson was contacted about the replacement of his iPhone SIM card, and a Vodafone SIM card was sent to his home address. No reference was made by the Parliament at that point to Mr Matheson's iPad SIM card. At the time of travelling to Morocco, Mr Matheson's iPhone was operating on the new

Vodafone contract while his iPad remained on the EE SIM card.

The committee is of the view that other steps should have been taken by the Parliament, such as providing a replacement SIM card by post or, indeed, cancellation of the SIM card after it had not been updated. However, the committee considers that there was a contributory factor on the part of Mr Matheson in relation to his failure to notify the Parliament in advance of his travelling to Morocco. The committee notes that, even if the SIM card had been updated, the question of data usage for non-parliamentary purposes remains.

In respect of the £3,000 contribution from his office cost provision, the committee notes that Mr Matheson has indicated that his understanding was that he was making a contribution on a voluntary basis to offset costs. In seeking to take into account Mr Matheson's motivations, the committee has noted that Mr Matheson believes that he was offering to assist the Parliament, and it accepts that that was his motivation in authorising the payment.

However, on the basis of the information in the SPCB's report and the information presented by Mr Matheson, the committee considers that Mr Matheson was provided with sufficient information necessary to be able to understand that the payment from his office cost provision would be regarded as a claim under the expenses scheme.

The standards of assurance that are expected in making claims under the scheme—that is, that they have not been incurred as a result of non-parliamentary usage to a significant extent—were therefore applicable at this material time. Accordingly, the committee does not consider that there is sufficient mitigation with regard to the information available to Mr Matheson at the time of authorising the allocation from office cost provision.

The committee has further considered Mr Matheson's degree of knowledge of any non-parliamentary use at the time of authorising the payment. In light of explanation provided by Mr Matheson as to the queries he raised about potential unauthorised use and that he had been provided with assistance in setting up the hotspot by a family member, the committee considers that Mr Matheson would not have been in a position to offer assurance to the necessary standard. The committee takes seriously the fact that the required standard of assurance was not met at the time that the transfer from the office cost provision was authorised by the member.

The committee acknowledges that Mr Matheson has reimbursed the SPCB the full amount of the costs incurred—£10,941.74—and that, to that extent, the costs to the public purse have therefore

been addressed, as is set out in the SPCB's report.

In his statement to the Parliament and representations to both the SPCB and the committee, Mr Matheson set out that, since becoming aware of the circumstances in which the data usage occurred, he has been motivated by seeking to protect his family. Mr Matheson has described the significant impact that there has been on his family, and the committee acknowledges the impact of the significant media and other intrusions that took place on Mr Matheson and his family.

However, the obligations that all members have under the code, the expenses scheme and the relevant SPCB policies are of paramount importance in upholding the integrity of the scheme and the ethical standards framework flowing from the Nolan principles that underpin the conduct of parliamentary duties. Any failure to meet those obligations has an adverse impact on the reputation of the expenses scheme, members and the Parliament as a whole.

Mr Matheson has raised concerns about aspects of the parliamentary authority's handling of information, including during the period from 9 to 15 November 2023. The committee notes the comments made by Mr Matheson regarding his trust in the parliamentary authorities. However, the committee has concerns about the fact that the non-parliamentary usage of the data was not drawn to the attention of the parliamentary authorities, including the Presiding Officer, more timeously. Mr Matheson had chosen not to share with the Parliament his knowledge of non-parliamentary use prior to 16 November, and the committee notes that the Parliament could not have been expected to take account of matters of which it was not aware.

The committee has considered Mr Matheson's decisions regarding the sharing of information about his knowledge of non-parliamentary use in terms of the Nolan principles and the obligations on Mr Matheson—and, indeed, all MSPs—to be open, honest and accountable in relation to the use of expenses. Ultimately, the committee considers that the findings of the SPCB indicate a position in which the standards of conduct that are expected from members of the Scottish Parliament have not been met. The unanimous view of the committee is that it is therefore appropriate to recommend sanctions for consideration by the Parliament.

10:30

The committee is also unanimous in its view that it is appropriate to recommend sanctions that include a financial element and a period of

exclusion from proceedings of the Parliament and its committees. The committee is unanimous in recommending a financial sanction of withdrawal of salary for a period of 54 calendar days. The committee was not able to reach a unanimous view on the period of exclusion from proceedings that should be recommended.

A proposal for a period of exclusion of 27 sitting days was made by Annie Wells. Oliver Mundell indicated his support for that proposal. Jackie Dunbar and Alasdair Allan did not agree with that proposal. I cast my vote not on a personal view but in my capacity as convener, recognising that the committee would otherwise not have been in a position to make a recommendation. I supported the proposal for exclusion for a period of 27 sitting days. A majority of the committee therefore supported a recommendation of exclusion for a period of 27 sitting days.

The majority of the committee considers that the sanctions that it recommends reflect the seriousness of the breaches of sections 7.3 and 7.4 of the code in this case. Had it not been for mitigatory factors, including the impact on the member and his family, the sanctions proposed would likely have been greater.

I invite committee members to make any contributions that they want to make. I turn first to Alasdair Allan.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): Both Jackie Dunbar and I recognise the need for a financial penalty in this case. In an effort to reach consensus within the committee, we support the figure agreed, although we take the view that it is certainly at the high end of the range of available sanctions.

Likewise, on the issue of suspension from the chamber, we recognise the need for a penalty of that kind but we voted against the figure of 27 days, given that it was, in our view, extremely high compared with any sanctions in previous cases.

The Convener: Jackie Dunbar, is there anything that you would like to add?

Jackie Dunbar (Aberdeen Donside) (SNP): I have nothing further to add to Dr Allan's comments.

The Convener: Annie Wells, is there anything that you would like to say?

Annie Wells (Glasgow) (Con): I am fine, thank you, convener.

The Convener: No problem. Oliver Mundell, I come to you.

Oliver Mundell (Dumfriesshire) (Con): Given the significant damage to the reputation of the Parliament and public trust in it and its members, I believe that a significant suspension is necessary.

It is clear to me from the evidence that we have considered that those who have sent us here would not look kindly at a short suspension for one of our own when many in the real world would have faced the very real possibility of losing their job in the same circumstances. I therefore would have supported a higher sanction, but I recognise the need to come to a majority view.

The Convener: I thank members for their comments on the matter. The meeting will now continue in private to allow the committee to finalise its report before it is published.

10:33

Meeting continued in private until 11:39.

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The deadline for corrections to this edition is:

Wednesday 26 June 2024

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

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