



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE COMMISSION

Wednesday 20 January 2010

Session 3

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**MEETING OF THE COMMISSION**

**1<sup>st</sup> Meeting 2010, Session 3**

**CONVENER**

\*Angela Constance (Livingston) (SNP)

**COMMITTEE MEMBERS**

Robert Brown (Glasgow) (LD)

\*Derek Brownlee (South of Scotland) (Con)

\*George Foulkes (Lothians) (Lab)

Hugh Henry (Paisley South) (Lab)

\*attended

**THE FOLLOWING GAVE EVIDENCE:**

Avril Coats (Scottish Government Human Resources and Corporate Services Directorate)

Colin Miller (Scottish Government Strategy and Ministerial Support Directorate)

**CLERK TO THE COMMITTEE**

Terry Shevlin

**LOCATION**

Committee Room 3



## Scottish Parliament

### Meeting of the Commission

*Wednesday 20 January 2010*

[The Convener *opened the meeting at 10:00*]

### Decision on Taking Business in Private

**The Convener (Angela Constance):** Good morning, ladies and gentlemen. Welcome to the first meeting of the Scottish Commission for Public Audit in 2010. We have received apologies from Robert Brown and Hugh Henry. I remind people to switch off their mobile phones. I am not entirely sure that I have switched mine off, so I will have a bit of a rummage in my typically voluminous handbag.

Before we proceed with the agenda, I extend a warm welcome to Terry Shevlin, who is the new secretary to the commission.

**George Foulkes (Lothians) (Lab):** Hear, hear.

**The Convener:** I also pay tribute formally to Mark Brough, who is away on secondment to the Accounts Commission and has served the Scottish Commission for Public Audit diligently over the past two years.

Do members agree to take in private item 3, to enable us to reflect on the evidence that we will hear from a Scottish Government official?

**Members** *indicated agreement.*

10:02

**The Convener:** The commission will take evidence from the Scottish Government on an issue related to the Public Services Reform (Scotland) Bill that is of particular relevance to it. I welcome Avril Coats, who is head of public appointments at the Scottish Government and will answer questions on the possible role of the Office of the Commissioner for Public Appointments in Scotland in appointments to Audit Scotland's board.

The commission was also scheduled to take evidence today on the order-making powers in part 2 of the bill, but last night the Scottish Government lodged amendments that seek to remove the commission and Audit Scotland from that part of the bill. I understand that the Finance Committee will consider those amendments at stage 2 at its meeting on 26 January, which is next Tuesday. Given that the Government's approach alleviates the concerns that the commission expressed previously, there was little point in the commission taking oral evidence on the matter this morning, as events have rather overtaken us.

There are various pieces of correspondence for members' consideration, to inform our questioning of Avril Coats. I invite her to make some opening remarks. We are aware of Mr Swinney's announcement to Parliament last week of the new role that the commission will have in helping to recruit non-executive members of the Audit Scotland board. He suggests that the commission, like other bodies, should adhere to the spirit of the OCPAS code, rather than that OCPAS should be involved in a formal or legal sense. Can you just say a few words to summarise the Government's position and the reasons behind it?

**Avril Coats (Scottish Government Human Resources and Corporate Services Directorate):** Certainly. Thank you for giving me this opportunity, convener. I am happy to detail the practicalities of each option, including Mr Swinney's preferred one, which is to invite the commission to make the appointments in a way that reflects the spirit of the key OCPAS principles. That is perhaps the bit to focus on; it is not so much about adhering to the OCPAS code in detail, but about adhering to the underpinning key principles, which are appointment on merit, equality of opportunity, openness and transparency. The main one is appointment on merit: if a decision is based on that principle, you cannot really go far wrong. That is how the majority of unregulated appointments are made,

including Scottish Parliament office-holder appointments.

We are looking to discuss with you making a clear statement that would set out the rationale behind the appointments process that you intend to use for these non-executive appointments. Perhaps you could say that the appointments will be made on merit and with the promotion of equality of opportunity for all, while ensuring that an open and transparent process is used.

We considered all options, and certainly did not make a quick decision. We looked into the practicalities of the way in which unregulated appointments are made and whether any issues had been flagged up. However, there was nothing of any significance that we felt merited the additional belt-and-braces approach of involving someone from OCPAS, because clearly you could involve independent assessors who are not OCPAS assessors, as the Scottish Parliament currently does.

**The Convener:** Thank you for that. The commission has before it correspondence from Scottish Government officials outlining the three options that were put to Mr Swinney. Option 1 is to extend the commissioner's remit, but my understanding is that that would require legislation because the commissioner currently has a role only in respect of ministerial appointments. Option 2 is a review as part of the consideration of the Review of SPCB Supported Bodies Committee bill. Will there be further deliberations of relevance to the commission with regard to OCPAS's role under that forthcoming bill?

**Avril Coats:** Those areas are coming up in the near future, but there is certainly no timeline that would prevent a review at another time, should there be a decision to look at the remit of OCPAS. That could be done at any time, because it falls under the remit of the Parliament and Scottish ministers.

**The Convener:** So in theory there is still scope for issues to be revisited in the forthcoming bill, irrespective of the view that the commission takes today after its deliberations.

**Avril Coats:** Yes.

**The Convener:** In your opening remarks, you made a point about adhering to the underpinning principles, as opposed to the nuts and bolts, of the OCPAS code. The commission has received correspondence from Mr Bruce, the compliance manager from OCPAS. One of the points that he raised was that you cannot wholly apply the code unofficially, because to follow the letter of the code you need to have an OCPAS assessor involved throughout the process. Can you say a bit more about the value of adhering to the principles of the OCPAS code and how that works with other

parliamentary committees and bodies? Has there been any evaluation of that approach, and is it considered to work well?

**Avril Coats:** On bodies that are not regulated by OCPAS, which we call unregulated bodies, my colleagues and I have not had any correspondence in which significant issues have been raised. The principles that we work to are the OCPAS ones, bar the one on independent scrutiny, which refers directly to OCPAS assessors. However, we give advice on wholly independent people to use on panels—the Scottish Parliament has a list of people whom it uses for office-holder appointments. We advise on who would be best to use on various panels. The other principle that would not be appropriate is that relating to ministerial responsibility, because the appointments are not ministerial ones.

The bodies that I have spoken to in weighing up the pros and cons of the options all agreed that the principle of appointment on merit is the key one. As long as it is made public that that is the principle, it seems to ease public concern that the process could simply be a tap on the shoulder. The fact that there is an open and transparent process means that there is clear tracking of how it was done and that all the papers are there should the process need to be audited, scrutinised or verified. That seems to work well.

**The Convener:** How do you ensure that the independent observers are independent? How are they recruited?

**Avril Coats:** Various individuals contact us and put themselves forward. The people whom the Scottish Parliament uses in appointing office-holders are based in England and are wholly independent from the Scottish Parliament and associated appointments. We contact various bodies whose remit has absolutely nothing to do with the body that is being appointed to—they have no dealings on funding and no contact. We carry out checks on the background of the individuals to ensure that there is no underlying tie that could be brought into an appointment. Much of the process is about trying to get names of individuals. We have to update the information constantly to ensure that there are no ties, because people move on and get new positions. We have to ensure that they do not tie in with any bodies.

Some unregulated bodies do not have what we would call an independent assessor. They feel confident in their documentation and their appointment-on-merit process, so they do not feel a requirement to have a person who is wholly independent from the body or its human resources department. The situation with regard to how unregulated bodies approach appointments is a bit of a mixed bag. A body that is clear and

comfortable with the processes that it has in place does not always take on an independent assessor.

**The Convener:** Do you have information about how long an appointment with an OCPAS assessor takes from beginning to end and a clear estimate of how much it costs?

**Avril Coats:** On average, it takes six months. Lately it has been taking between six and eight months because we are looking for a more flexible approach and are trying to encourage different application and assessment methods. Obviously, that has a knock-on effect on the timetable.

With regard to fixed costs, an OCPAS assessor charges £250 a day. Their involvement can vary from four to five days, depending on the assessment and application methods that are used. The staffing resources—the time commitment of those who are involved—tend to add up to more than the actual pounds and pence.

**The Convener:** I read somewhere—although I cannot remember where—that it can take six to nine months for an OCPAS appointment. Is that accurate?

**Avril Coats:** Yes. The average is at least six months.

**George Foulkes:** Why does it take so long?

**Avril Coats:** There are clear timelines and procedures that have to be adhered to throughout the process, and each element of the key stages must be approved by the full selection panel, which includes the OCPAS assessor. Also, any changes to any of the key documentation must be agreed and signed off by everyone who is involved in the selection panel, so there can be a lot of to-ing and fro-ing at the planning stage. Clearly, if the planning is all done appropriately, the process is a lot slicker.

10:15

**George Foulkes:** That is an awfully long time. Our convener produced a wonderful bouncing baby in nine months, but the appointments process is a much longer exercise. I do not understand why the procedures take so long—I understand your answer, but I do not understand why each appointment takes such a long time. I could give you more examples of things that are done inside six or nine months and are much more demanding than making an appointment. Why are there such long time lags?

**Avril Coats:** You probably have to ask the commissioner about some of that. In the Scottish Government, we ensure that ministers come back with decisions as quickly as possible. We normally have ministerial decisions within six weeks when it comes to who they are going to appoint.

Sometimes, the timelines go over a parliamentary recess but, in the main, ministers adhere to the six-week timeframe. However, that is right at the end of the process. The planning stage tends to take up the majority of the time. We place adverts for a month, so that is a month gone. An advertising period of four weeks is standard practice within the Scottish Government, so you could look to shorten or lengthen that.

**George Foulkes:** Do you have an express process if there is a demand for it? Can the procedure be shortened if there is an urgent need for someone to be appointed, for example if a vacancy could create lots of problems?

**Avril Coats:** For OCPAS appointments, there is such a thing as an emergency appointment. However, that is at the discretion of the commissioner, who would need to weigh up the pros and cons of the case that was placed before her.

**The Convener:** The questions are finished. I am grateful to Avril Coats for coming along this morning and hope that it was not too painful.

**Avril Coats:** Thanks for the opportunity; I appreciate it.

10:17

*Meeting continued in private until 10:28.*





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