



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 21 April 2015

Session 4

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JUSTICE COMMITTEE
12th Meeting 2015, Session 4

CONVENER

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

DEPUTY CONVENER

*Elaine Murray (Dumfriesshire) (Lab)

COMMITTEE MEMBERS

*Christian Allard (North East Scotland) (SNP)
*Jayne Baxter (Mid Scotland and Fife) (Lab)
*Roderick Campbell (North East Fife) (SNP)
*John Finnie (Highlands and Islands) (Ind)
*Alison McInnes (North East Scotland) (LD)
*Margaret Mitchell (Central Scotland) (Con)
*Gil Paterson (Clydebank and Milngavie) (SNP)

*attended

CLERK TO THE COMMITTEE

Tracey White

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Justice Committee

Tuesday 21 April 2015

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Christine Grahame): Good morning. I welcome everyone to the Justice Committee's 12th meeting in 2015. I ask everyone to switch off mobile phones and other electronic devices.

No apologies have been received.

Under agenda item 1, I ask members to agree to take in private item 4, which is consideration of our draft stage 1 report on the Human Trafficking and Exploitation (Scotland) Bill. Do members agree to do so?

Members indicated agreement.

Petitions

Fatal Accident Inquiries (PE1280)

10:01

The Convener: Item 2 is consideration of seven petitions. I will go through each in turn and ask members for views on what, if any, action they want to take.

PE1280 is on fatal accident inquiries into deaths abroad. We previously agreed to consider the petition in the context of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill. We are due to hear from the petitioner during our stage 1 scrutiny of the bill. Are members content to keep the petition open while we consider the bill?

Members indicated agreement.

Justice for Megrahi (PE1370)

The Convener: PE1370 calls for an independent inquiry into the Megrahi conviction. We have received an update from Justice for Megrahi on its latest meeting with Police Scotland—the update is available at annex B of paper J/S4/15/12/1. Justice for Megrahi asks us to consider the principle of appointing an independent prosecutor to consider the forthcoming Police Scotland report. Separately, the Scottish Criminal Cases Review Commission has asked the High Court for a ruling on the legal status of the victims' relatives, to enable it to decide whether they can pursue an appeal on Megrahi's behalf. A date for a full hearing is yet to be fixed. Do members have any comments on those developments?

I declare that I am a member of the Justice for Megrahi campaign.

John Finnie (Highlands and Islands) (Ind): The request is entirely reasonable, and I would hope that the committee would throw its weight behind it. There is an independent Queen's counsel who is assisting with the on-going police investigation.

The reports that we have received are very encouraging. Certainly, Justice for Megrahi seems to have "full confidence" in Police Scotland, which is welcome. Police Scotland has said that it will act as an honest broker and thoroughly investigate the incidents that have been alleged in good faith. Of course, it is what happens thereafter that is the challenge.

However, I suggest that there is precedent in the system, given that an independent QC is assisting with the police inquiry.

Roderick Campbell (North East Fife) (SNP): I have a couple of points. On the procedural hearings to determine whether a reference to the Scottish Criminal Cases Review Commission can go ahead, we have to wait and watch. That is a very good reason for keeping the petition open.

On an independent prosecutor, we should not take a decision without specifically referring the matter to the Crown Office and asking for its comments.

The Convener: My concern is whether it would be competent for the committee to appoint an independent prosecutor. I concur with Roddy Campbell on asking the Crown Office for its comments.

I see that John Finnie wants to come back in. I am just giving my views—I am not summing up.

I also suggest that we ask the Government for its views on competence in relation to the appointment of an independent prosecutor.

John Finnie: For the avoidance of doubt, I was not saying that that is in the committee's gift; I was saying that we should lend our support to Justice for Megrahi's calls for such an appointment to be made. Clearly, there will be a role for the statutory prosecuting office, which is the Crown Office and Procurator Fiscal Service.

Roddy Campbell's point about the SCCRC is interesting, but it is a separate issue altogether.

The Convener: It is indeed. That is not a problem for us because, with regard to that part of the process, we must wait and see what happens at any full hearing. The issue of the roles of the Crown Office and the police throughout is a separate matter.

I take the view that we need to find out the position on who would investigate the Crown Office. How would one go about that? I do not know whether that has ever happened. I am looking around for guidance.

John Finnie: Should we not assume that that is part of the on-going police inquiry?

In some respects, the issue is more that, when the police come to submit their report, they are, as things stand, submitting it to someone who has already prejudged the situation with intemperate remarks.

The Convener: Does anyone else want in? I see that Roderick Campbell is shaking his head.

Roderick Campbell: No—I just think that it is premature.

The Convener: That is because we are waiting for the police report.

Do members want me to write to find out whether, in principle, an independent prosecutor could be considered?

John Finnie: It would be interesting to hear the Lord Advocate's views on that.

The Convener: Okay.

John Finnie: It is clear that, given his prior involvement in the case, he will not be able to have any direct hands-on role anyway in any report that is received.

The Convener: Yes. Frankly, some of the Lord Advocate's comments during hearings on the petition were not helpful. That may in some ways colour one's feeling of being content that there is—I hesitate to say—an independence of spirit.

What are we going to do? Will we continue the petition? Who will we write to? I seek members' guidance.

Margaret Mitchell (Central Scotland) (Con): Is the key issue not that we should wait until the Scottish Criminal Cases Review Commission has reported on the victims' status?

The Convener: Well, there are two issues. The issue that you raise is not a problem—it is fine; we will just wait for the full hearing. We will keep the petition open for that reason. The question is whether we should take any action in relation to an independent prosecutor.

John Finnie: I suggest that we write to the Lord Advocate to ask for his views on that question. Alternatively, we could ask how, given his prior personal involvement, he would envisage being able to take forward a report that was presented to the Crown Office and Procurator Fiscal Service by Police Scotland.

The Convener: Do you want us to refer to some of the comments that have already been made by the Crown Office? Do you want to be as pointed as that?

Roderick Campbell: I would prefer the request to be neutral. The committee can relay the petitioners' position and comments, but without expressing a view on the matter.

The Convener: What we have already heard and said is on the record. We will write a fairly neutral letter. Are members agreed?

Members indicated agreement.

The Convener: Thank you. We will keep the petition open.

Access to Justice (Non-corporate Multiparty Actions) (PE1427)

The Convener: We move to PE1427, on multiparty actions. Correspondence from the Scottish Government in response to the petitioner's concerns regarding the withholding of documents is included in annex C in members' papers. The Government has included the petitioner in its related consultation. Can I have members' views, please?

There are no comments. Would members like to draw the petitioner's attention to the Scottish Government's letter and close the petition?

Members indicated agreement.

Solicitors (Complaints) (PE1479)

The Convener: PE1479 relates to the legal profession and the legal aid time bar. The committee previously agreed to keep the petition open until the Scottish Legal Complaints Commission's rule change for a new time bar come into effect in July this year. Will we just continue the petition?

Members indicated agreement.

Self-inflicted and Accidental Deaths (Public Inquiries) (PE1501)

The Convener: PE1501 is on public inquiries into self-inflicted and accidental deaths following suspicious death investigations. We have received correspondence from the petitioner in response to issues that have been raised, and a letter from the Crown Office and Procurator Fiscal Service. The petitioner has also provided detailed information on the need for an alternative review system. Although the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill does not address the issues that the petition raises, it is feasible for those issues to be considered during stage 1 of the bill. Can I have members' views, please?

Elaine Murray (Dumfriesshire) (Lab): The issues are a bit wider than the bill. In particular, from looking at the supplementary evidence that the petitioner has provided, it seems to me that the matter goes quite a bit further than anything that will be considered during the bill process.

There are particular issues with regard to the way in which unexplained or self-inflicted deaths are investigated in different parts of the country. That will not be covered at all during our consideration of the bill.

Roderick Campbell: I agree with Elaine Murray that the issues are a bit wider, but I am not quite sure—we could seek procedural information from

the clerks—when we would next consider the petition in the normal course of business.

The Convener: We usually consider petitions every quarter.

Roderick Campbell: We might come back to the petition in three months' time, once we have had a proper opportunity to digest things.

The Convener: Are members content that we leave the petition open, as the issue possibly does not fit with the ambit of the bill?

Members indicated agreement.

Emergency and Non-emergency Services Call Centres (PE1510)

Inverness Fire Service Control Room (PE1511)

The Convener: We move to PE1510 and PE1511, on police and fire control rooms. We previously agreed to keep the petitions open, pending the Audit Scotland report on the Scottish Fire and Rescue Service that is expected in the autumn. We are also due to take evidence on fire reform more generally next week.

Alison McInnes (North East Scotland) (LD): In the recent past, we have seen increased concern about the time that is taken to answer calls and the capacity of the amalgamated control rooms to cope. Some concerns have been expressed about resilience, with a number of recent press reports on the matter.

I wonder whether, at this mid-point of the reorganisation, we should seek evidence from Police Scotland, in particular, on how it thinks the closures have gone and whether it is able to cope with the pressures.

John Finnie: I support Alison McInnes's position. Convener, you will recall that during our discussions about the Justice Sub-Committee on Policing's review of local policing I suggested that we include call handling in order to have the broadest possible consideration of the issue and to examine how Police Scotland was responding to calls for assistance from the public.

The Convener: I am just discussing the way forward with the clerks. In the first instance, we could write to the chief constable, raising our concerns, but I also suggest that when the Justice Sub-Committee on Policing deals with the issue of local policing—in June, I think—we could raise questions as part of the agenda. By that time, we will have received a response from the chief constable. Are members content with that approach?

Members indicated agreement.

The Convener: My goodness—we have whizzed through the petitions.

European Union Priorities

10:10

The Convener: Agenda item 3 is consideration of a response from the Minister for Community Safety and Legal Affairs on our European Union priorities for 2015-16. Roderick, that is your cue to say a few words about the minister's response—if you want to, that is.

Roderick Campbell: I do not have very much to add to what is in the minister's letter. We do not have the updated action plan on European engagement, and the other matters have been fairly well set out.

The only thing that I would mention is the European agenda on migration. I think that, in light of recent events, the European Commission might well be looking at the issue further. We specifically asked about the agenda's correlation implications for the Human Trafficking and Exploitation (Scotland) Bill, and I do not demur from the Government's comments on the matter.

Other than that, I suggest that the committee simply notes the minister's response.

Christian Allard (North East Scotland) (SNP): I agree with Rod Campbell. After what has happened this week, a lot of the European agenda on migration will be rewritten, and a different tone might well be taken with regard to the EU's engagement, particularly with what is happening in the Mediterranean.

The Convener: Given the recent horrendous events, the committee might want to have a more robust focus on the European agenda on migration. When I look at the four main areas identified in the minister's letter for "possible future action", which include

"a Common Asylum system ... a new policy on legal migration ... fighting irregular migration and human trafficking more robustly"

and

"securing Europe's external borders",

I think that Scotland's Justice Committee should begin to put its weight on such matters. Is there any way we can do that? Can we communicate back in those terms?

Roderick Campbell: I think that it is a moveable feast, convener. We should probably pay attention to the matter in our work programme, although we should also consider the work that other committees in the Parliament might want to do on it.

The Convener: Do we want to ask the European and External Relations Committee about that?

Roderick Campbell: That was the committee that I was thinking of.

The Convener: Are you on that committee?

Roderick Campbell: I am.

The Convener: Apart from sending you as our messenger, then, we will formally write to the European and External Relations Committee on the issue. After all, it is not simply a case of putting a human trafficking and exploitation bill in place; much more requires to be done of a practical and pragmatic nature. People who are desperate will not pay any attention to any bill that might be passed.

We will therefore write to the European and External Relations Committee, asking whether it is addressing the issue, and we, too, will keep our eye on it. I also note that Alison Johnstone has a topical question on the matter this afternoon. I lodged a question to the First Minister on the same subject, but it was not selected—there we are.

Roderick Campbell: So did I.

The Convener: Roddy and I were obviously in competition.

Thank you very much. We now move into private session.

10:14

Meeting continued in private until 11:15.

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