

PE1458/DD

Response from Petitioner Peter Cherbi re: Petition PE1458: Register of Interests for Judges

Response to letter of 23 April 2014 from the Judicial Complaints Reviewer

Given the comments of the Judicial Complaints Reviewer, and additional supporting evidence including the 2013 rules consultation provided to the Committee, and the recent development where the Lord President has now published limited information on recusals online <http://www.scotland-judiciary.org.uk/68/0/Judicial-Recusals> which show a total of four in the past month, I urge members to recall Moi Ali for a further evidence session, given her role as JCR for the past three years provides a unique insight into judicial transparency & accountability, which can only be enhanced by creating a register of judicial interests.

I consider it of particular value that members be able to take evidence from someone on the publication of recusal data, and given the Lord President has consistently refused to appear before the Committee, I hope members will see the value of recalling the JCR to give her perspective on publication of recusal data.

Recusal data published by the Lord President

On the issue of Lord Gill's publication of limited information relating to recusals on the judiciary's website, given the Lord President has not yet provided members with historical data on recusals, I urge members to seek the historical data from the Lord President to enable comparison with figures now published. Given the relatively ease of recusal information now being published, surely historical data exists, and could be provided to the Committee.

From the judiciary's website, it is not clear as to what parameters the Lord President has set on what type of recusal data should be recorded, how it is recorded, and when, and whether incidents are recorded where judges decide not to recuse themselves and the reasons why including whether judges are asked to recuse by counsel, a litigant, or decide themselves.

I urge the committee to seek clarification from the Lord President on these points, as the current data on recusals is of limited value if there is no published guidance or a statutory framework to go with it - as exists with declarations of the Lord President & judicial members on the SCS Board.

The move to publish recusal data is a welcome step forward, but offers only limited further information on how judges are dealing with their interests on a case by case basis, whereas a full register of judicial interests would create a necessary publicly

available database for anyone to consult before or during court proceedings take place, rather than simply publishing limited recusal data after the event.

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