

JUSTICE 1 COMMITTEE

Tuesday 18 June 2002
(*Afternoon*)

Session 1

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JUSTICE 1 COMMITTEE

26th Meeting 2002, Session 1

CONVENER

*Christine Grahame (South of Scotland) (SNP)

DEPUTY CONVENER

*Maureen Macmillan (Highlands and Islands) (Lab)

COMMITTEE MEMBERS

Ms Wendy Alexander (Paisley North) (Lab)

*Lord James Douglas-Hamilton (Lothians) (Con)

*Donald Gorrie (Central Scotland) (LD)

*Paul Martin (Glasgow Springburn) (Lab)

*Michael Matheson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Bill Aitken (Glasgow) (Con)

Mrs Margaret Smith (Edinburgh West) (LD)

Kay Ullrich (West of Scotland) (SNP)

*attended

ACTING CLERK TO THE COMMITTEE

Alison Taylor

SENIOR ASSISTANT CLERK

Claire Menzies

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 3

Scottish Parliament

Justice 1 Committee

Tuesday 18 June 2002

(Afternoon)

[THE CONVENER *opened the meeting at 13:47*]

Complaint to Standards Committee

The Convener (Christine Grahame): I open the 26th meeting of the Justice 1 Committee. I make the usual announcement about turning off mobile phones and pagers. I have received no apologies.

Members might recall that former First Minister Henry McLeish gave his assurance to Alex Salmond on 6 January that when the Executive considered the options for HMP Peterhead, it would recognise the qualitative as well as the quantitative aspects. The committee discussed the matter on 16 April and agreed to write to Jack McConnell MSP, asking whether the First Minister supported those assurances. I confirm that I received a letter dated 31 May that states that Mr McConnell is happy to stand by assurances given at that time. The clerks will circulate the correspondence to members.

I am advised that Maureen Macmillan and Donald Gorrie wish to discuss a leak to a newspaper—it is the first I have seen of it. I have a copy of *Scotland on Sunday* in front of me, but was it in another paper?

Donald Gorrie (Central Scotland) (LD): It was in *Scotland on Sunday*.

The Convener: I have not seen it. Other things were happening in my hectic life on Sunday.

The article discusses supposed details of the draft report. It says that the paper has a copy of the report. Had I known about it previously, I would have mentioned it, but I am open to hearing what members want to do.

There are a couple of routes we could take. I will not accuse people round the table—that is not nice and there is no point in doing that.

Under paragraph 9.4.2 of the code of conduct for members, which is headed “Confidentiality Requirements”,

“All drafts of Committee reports should be kept confidential, unless the committee decides otherwise.”

We did not decide otherwise. Therefore, it is

possible for members to report to the Standards Committee that there has been a leak of a draft report. If members agree, I, as convener, will write to the Standards Committee. It would be helpful if members could indicate whether they think that the incident is serious enough to warrant an investigation by the Standards Committee adviser. That is the first option.

I think that the second option before us is not open. If it is suggested that the article in question was not entirely accurate in its reflection of the committee's work, the convener should write a letter to the editor of the newspaper in question, outlining the inaccuracies. Now that I see the article, I realise that that option is dispensed with, given that the journalist says that he has a copy of the draft report. I am in members' hands.

Maureen Macmillan (Highlands and Islands) (Lab): Despite the fact that the journalist says that he has a copy of the draft report, from what I read of the article, the report was not quoted accurately. I am not sure whether he is pretending that he has a copy or whether he has one. If he does have a copy, he obviously got it from somebody connected with the committee.

This is a very serious matter, which calls the integrity of the committee into question. If this journalist is playing games with us, that is a very serious matter; if somebody connected with the committee has handed a copy of the draft report to journalists, that is even more serious.

The Convener: Which bit of the report has been quoted? I have only just received the article.

Michael Matheson (Central Scotland) (SNP): Could we hold on before going into that, convener?

The Convener: Sorry, Michael.

Michael Matheson: I have been on this committee for nearly three years, and this is the first time that something like this has happened either in the Justice 1 Committee or in the Justice and Home Affairs Committee. Like Maureen Macmillan, my initial reaction on seeing the article on Sunday was that the matter has to be investigated. It undermines trust among members of the committee. If we do some other detailed report at a future date, I wonder what faith we can have if we find that a committee member is prepared to pass a copy of a report to the press.

In my view, the matter should be referred to the Standards Committee. Although Maureen Macmillan says that the newspaper article is not accurate, I think that the matter should be investigated.

Maureen Macmillan: I agree.

The Convener: I am sorry. I was reading the

article quickly. This was not a quote from the committee's draft report. It says, "A committee insider added". The other bit seems to be from the *Official Report*.

Paul Martin (Glasgow Springburn) (Lab): I fully support the suggestion that the matter should be referred to the Standards Committee.

On a separate issue—and I have not had a chance to speak to Wendy Alexander about this—I do not recall us asking Wendy to write to Grant Thornton. It is not the normal practice for the committee to ask any member to do that—that would be up to the clerk.

The Convener: Yes, that is a mistake.

Paul Martin: That factual inaccuracy should be questioned at the same time. On the issue of the leak, documents have been leaked from sources for years. It is never going to—

Michael Matheson: But this is a draft committee report, Paul.

The Convener: Please—

Paul Martin: If I could just finish this point.

The Convener: I remind members that this is on record.

Paul Martin: Things have been leaked for years. As Michael Matheson said, however, very few reports of most committees, to be fair, have been leaked. I think we should adhere to that standard. It is, in any event, a serious inaccuracy to claim that a member of the committee "wrote to Grant Thornton". That should be corrected.

Donald Gorrie: I think that we should pursue the matter with the Standards Committee. I was trying to find the paragraph of the draft report quoted in the press piece. I assume that it is accurate, but I have not checked it out.

The Convener: I have not checked it either.

Lord James Douglas-Hamilton (Lothians) (Con): I am on the Standards Committee, and I strongly believe that the matter should be raised with that committee. I had not read the draft report when I read the *Scotland on Sunday* article. It is offensive for the impression to be given that MSPs have formed a view before they have even had a chance to discuss their draft report.

The Convener: I note that the article is also wrong to say:

"The committee ... has employed a firm of accountants to prepare alternative costings."

That is just not the case. We have not done that.

Michael Matheson: I am not so concerned about the inaccuracies in the story. I am more concerned that the newspaper says that it has a

copy of the draft report. It is an issue of trust within the committee. For us to be able to function properly, we must have faith that people will not pass such information to the press.

The Convener: We will circulate the letter that we will write to the convener of the Standards Committee, saying that we want an investigation to be carried out with the Standards Committee adviser. Is that what I have to do?

Michael Matheson: Yes.

The Convener: I do not want to diminish the matter, but I want to press on.

Michael Matheson: You should take a very hard line on the matter, convener, given that it has not happened before. The Standards Committee should investigate.

The Convener: I agree, but a long discussion now is not going to bring progress. We are all agreed that a letter will go to the Standards Committee adviser for an inquiry, wanting an investigation—

Michael Matheson: Requesting one.

The Convener: Yes—that is what we are going to do. We will ask for an inquiry by the Standards Committee adviser. His role is to carry that out and report to the Standards Committee on the matter. Are you quite content with that?

Michael Matheson: Yes.

The Convener: The letter will be circulated.

Item in Private

The Convener: Under item 1 on the agenda, I ask for members' agreement to consider item 3, on witness expenses, in private. Because that item concerns expenses for individual witnesses, it would not be appropriate to discuss the matter in public. Are members agreeable to that?

Members indicated agreement.

The Convener: I am sorry that we are going so quickly. I am trying to rattle on. If our huge draft report on the prison estates review has been leaked, we want to get it finished and out properly.

Subordinate Legislation

Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 2002 (SSI 2002/246)

The Convener: Members have three instruments in front of them. I refer you to note J1/02/26/1. If there are no comments on the regulations, do members want to note the instrument?

Members *indicated agreement.*

Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2002 (SSI 2002/247)

The Convener: I refer members to paper J1/02/26/2. If there are no comments on the regulations, do members wish to note the instrument?

Members *indicated agreement.*

Civil Legal Aid (Scotland) Amendment (No 2) Regulations 2002 (SSI 2002/254)

The Convener: If there are no comments on the final instrument, do members wish to note it?

Members *indicated agreement.*

The Convener: We have decided to take agenda item 3 in private, because it relates to expenses being claimed by a witness. We have taken the view that it would not be appropriate to discuss the matter in public.

We agreed previously that the draft report on the prison estates review is also to be considered in private. I ask for the room to be cleared.

13:58

Meeting continued in private until 17:58.

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