

JUSTICE 1 COMMITTEE

Tuesday 18 March 2003
(*Afternoon*)

Session 1

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JUSTICE 1 COMMITTEE

† 7th Meeting 2003, 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)

Kate Maclean (Dundee West) (Lab)

Mrs Margaret Smith (Edinburgh West) (LD)

Kay Ullrich (West of Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Hugh Henry (Deputy Minister for Justice)

CLERK TO THE COMMITTEE

Alison Taylor

SENIOR ASSISTANT CLERK

Claire Menzies Smith

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 3

† 6th Meeting 2003, Session 1—held in private.

Scottish Parliament

Justice 1 Committee

Tuesday 18 March 2003

(Afternoon)

[THE CONVENER *opened the meeting at 13:33*]

Convener's Report

The Convener (Christine Grahame): I welcome members to the seventh meeting in 2003 of the Justice 1 Committee and remind everybody to turn off their mobile phones and pagers. No apologies have been received.

Agenda item 1 is the convener's report. The Executive's response to the committee's report on the regulation of the legal profession inquiry has been received—members should have paper J1/03/7/13, which makes interesting reading. The Minister for Justice broadly welcomes the committee's recommendations, although the Executive does not support the committee's view that there should be a single gateway for complaints handling.

The committee has also received a response from the Law Society of Scotland—paper J1/03/7/20—on the scheme of delegation for complaints handling, which makes even more interesting reading. I think that we have upset the Law Society a little. The successor committee must consider whether to pursue those issues. This is certainly not the end of the matter.

Subordinate Legislation

Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (Draft)

The Convener: Agenda item 2 is subordinate legislation. I welcome the Deputy Minister for Justice, Hugh Henry, who is prompt and has caught us on the hop. I refer members to paper J1/03/7/1, on the draft Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003, and to paper J1/03/7/24, which is correspondence from the Law Society. I invite the minister to speak to and move motion S1M-3931.

The Deputy Minister for Justice (Hugh Henry): The purpose of the order is to provide greater protection to the public and the most vulnerable members of society in particular by updating the exceptions and exclusions that apply to certain provisions of the Rehabilitation of Offenders Act 1974.

The committee will be aware of the act's principles. The act sets out to make life easier for those who have been convicted of a criminal offence and, since that offence, have not erred against the law. If someone does not receive a further conviction by the end of their prescribed rehabilitation period, the conviction becomes spent. In general, that means that they cannot be asked about the conviction and do not have to declare it in any proceedings before a judicial authority. In addition, they cannot be dismissed or excluded from any office, profession, occupation or employment on the basis of a spent conviction.

Exemptions from those provisions must be made to ensure that there is adequate protection for the public. Sections 4(4) and 7(4) of the act allow subordinate legislation to be made that excludes or modifies the application of, or makes exceptions to, the regime for rehabilitation of offenders under the act. The exceptions order therefore provides that questions can be asked about spent convictions when a person is being considered for, or already holds, certain specified positions and types of work that involve a particular level of trust. Questions can also be asked about spent convictions in the course of certain specified proceedings.

The exceptions order in Scotland has not been updated since 1986. It is important that the provisions in the order are consistent with other pieces of legislation that the Scottish Parliament has considered fully. In particular, we are updating the list of exceptions and exclusions to the Rehabilitation of Offenders Act 1974 to ensure that the provisions in Scotland are consistent with the

Regulation of Care (Scotland) Act 2001 and the Protection of Children (Scotland) Bill. Accordingly, all those who work in a child care position or who are concerned with the provision of a care service will be covered by the order. We are also adding some occupations that have recently been added to the existing exceptions order but that apply in England and Wales only—for example, taxi drivers and any employment that is concerned with the monitoring of the internet for the purposes of child protection. Other changes include specific provision in the order for social workers and social service workers and the updating of terminology to reflect the fact that this is the first order for Scotland only.

For members' information, we have given in notes to the press release that will be issued a fuller list of the occupations that will be considered for the first time. That list includes chartered psychologists, actuaries, social workers, precognition officers, curators ad litem, Her Majesty's inspectors of education and police custody and security officers. The list is extensive.

The inclusion of a type of work in the exceptions order does not necessarily debar ex-offenders from those jobs, but a prospective employer in the excepted areas of employment would be entitled to ask about spent convictions and to make an assessment of the relevance of the previous conviction. The new order will make it possible for a wider range of employers to be able to have the individual's conviction status confirmed through the criminal conviction certificates that are available under part V of the Police Act 1997.

It is important that we strike the right balance between supporting the rehabilitation of offenders and protecting the public. We are all clear that employment can reduce reoffending. That reduction in turn cuts the cost of crime and helps to close the opportunity gap. We are confident that the updated exceptions order strikes that balance. We consulted a wide range of employers, service providers and organisations that represent the interests of children, vulnerable adults and ex-offenders. We received 40 responses, which were overwhelmingly in favour of the proposal. A summary of the responses has been provided with the Executive note.

As the committee is aware, progress on the order has been linked to a transfer of functions under the Scotland Act 1998. The committee considered the section 63 order on 14 January and the Privy Council made that order following approval on 27 February. I am pleased to introduce an updated and consolidated exceptions order so soon after the transfer of powers that make it clear that Scottish ministers can update all aspects of the order. There had previously been doubt about whether provision could be made in

areas of work, such as financial services, that are reserved under schedule 5 to the Scotland Act 1998. The section 63 order has removed any doubt about that.

The Executive will continue to liaise with the Home Office to ensure consistency on areas that United Kingdom legislation covers. However, the order will allow us to make a significant improvement to the exceptions provisions in Scotland, which had not offered the level of protection that was required in certain areas. By making the order consistent with recent legislation in Scotland, updating terminology and adding some new positions, we are assuring the public that, in cases where a position involves a particular level of trust, the employer or authorised body has the right to ask about spent convictions. Previous convictions can then be checked through Disclosure Scotland.

I move,

That the Justice 1 Committee, in consideration of the draft Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003, recommends that the Order be approved.

Lord James Douglas-Hamilton (Lothians) (Con): The order seems altogether admirable and sensible. At a job interview, a convicted person obviously does not have to reveal convictions after the relevant period of time has elapsed. However, there are exceptions, which involve working with children and vulnerable adults and the administration of justice and national security, for example. Will all crimes of violence against women and children fit into that category? For example, if a man applied to be a janitor and he had been convicted of rape or attempted rape, would the order cover his circumstances in relation to his rehabilitation? Presumably, you would want the public to be protected.

Hugh Henry: Anyone who works with children would have to reveal such a sentence. There is also an issue about the length of sentences for certain categories. Any conviction that leads to a sentence of more than 30 months is never spent.

The Convener: I am sorry, minister. A bit of etiquette was abused just now, and I am not prepared to have that. A member of the press came in and tapped a member of the committee on the shoulder while you were speaking. I am simply not having that. We are dealing with it.

Lord James Douglas-Hamilton: Will the minister tell us in a letter—after due consideration with his civil servants—what categories of offences will be considered as hazardous to children and which social services organisations will have to be informed before an applicant with convictions for such offences is taken on, even if he has been rehabilitated?

Hugh Henry: All such offences against children come into that category, but I am more than happy to provide that assurance in writing.

Lord James Douglas-Hamilton: I would like that information for clarity, as it would also be helpful to know whether severe assaults on women are included, which is perhaps not the case at present.

Hugh Henry: I believe that the order covers that, but we will clarify the matter.

Donald Gorrie (Central Scotland) (LD): I seek clarification on one point and wish to highlight a further issue. On rehabilitation following a period of no further convictions, the first paragraph of our note reads:

“The period varies from six to ten months”.

I think that it should read “six to 10 years”. Is that right?

Hugh Henry: It should say “six months to 10 years”. Could you repeat what the committee’s note says?

Donald Gorrie: It is our internal note. It says:

“The period varies from six to ten months”.

The Convener: That is clarified now: it was a typographical error.

Donald Gorrie: As an ex-schoolteacher, I point out—I am conscious that this is to go out as a public document—that the bottom two lines of the first page of the Executive note are repeated at the top of the second page. Perhaps that could be corrected.

13:45

Hugh Henry: Our version of the document appears to be slightly different. I am not sure what has happened.

Donald Gorrie: That is all right. I was merely wanting to ensure that a document with a mistake was not put out.

Hugh Henry: Absolutely. We will double-check that to ensure that what goes into the public domain does not include that error.

Donald Gorrie: Thank you.

The Convener: I seek clarification about the criminal offences involved. Is any criminal offence covered? Would people still have to declare a road traffic offence or anything else that would not particularly impinge on whether they could deal with children and young people?

Hugh Henry: In relation to children, any offence would be covered.

The Convener: Any offence of whatever nature? Even a road traffic offence?

Hugh Henry: Yes.

The Convener: Is that for all cases? There are exceptions applying to various professions and occupations. Is every criminal offence covered?

Hugh Henry: Not if the person concerned was going to work in financial services, for example. If they were going to work with children, however, any offence would be taken into account.

The Convener: I do not quite follow. Let us take someone who is working in one of the excepted professions—a chartered psychologist, for example. For them, offences are not spent. Is that correct?

Hugh Henry: Yes.

The Convener: If that chartered psychologist had committed a road traffic offence, for which a criminal sentence had been imposed, that would still have to be declared.

Hugh Henry: I believe so. For absolute clarity, however, we will confirm that for the committee later.

The Convener: One can see the connection with what the person may have done—the breach of trust that may have taken place—and the work that they then do. If the offence apparently has no connection whatever with what the person does later, I wonder whether that goes too far towards infringing their rights. It could be argued that they have spent their time and should be starting with a clean sheet. I simply seek clarity on that.

Hugh Henry: One problem in that respect may be posed by the 1974 act itself, rather than by the exceptions order. We will have to go back to the primary source.

The Convener: We would be grateful for that clarification.

Motion agreed to.

That the Justice 1 Committee, in consideration of the draft Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003, recommends that the Order be approved.

The Convener: Thank you, minister. We will be back next week to hear your explanations and to receive a paper from you. Unfortunately, the committee meets again.

Hugh Henry: I take it that you will not have any more parties before that.

The Convener: No, there will be no more parties. I assure you that we had a very light lunch today.

Civil Legal Aid

The Convener: Item 3 is on civil legal aid. I refer members to the relevant statutory instrument—the Civil Legal Aid (Scotland) (Fees) Amendment Regulations 2003—which appears as J1/03/7/3. There is correspondence regarding the reform of civil legal aid from the Deputy Minister for Justice in paper J1/03/7/4, from the Law Society of Scotland in paper J1/03/7/5 and from the Association of Independent Law Accountants in paper J1/03/7/6. There are also submissions from the Scottish Consumer Council in paper J1/03/7/7 and from Scottish Women's Aid in paper J1/03/7/22. I also refer members to the note by the clerk, J1/03/7/2, inviting the committee to consider the responses and to decide whether any further evidence is required before the committee formally considers the regulations at its meeting on 25 March.

Donald Gorrie: This is an area in which I am seriously inexperienced. The Association of Independent Law Accountants seemed to have concerns. There are swings and roundabouts, but I think that undefended cases were excluded from the provisions of the regulations altogether. If I understood the association's submission rightly, under the regulations bigger cases would come out badly whereas smaller cases would come out well. At issue was whether that would discourage the association's members from taking on bigger cases. That seemed to be the argument. Perhaps someone who knows more about it can clarify that.

The Convener: We need to decide whether we want to take evidence from those who have made written submissions. There is time for us to do that if members still have concerns. Members may feel that they no longer need to take oral evidence because sufficient clarification has been given in the written submissions. I am asking the committee to tell me what it wants to do.

Lord James Douglas-Hamilton: The opposing arguments on the issue seem quite evenly balanced. I come down on the side of the Law Society of Scotland for four reasons. The regulations are supportable because they provide accountability, value for money, quality assurance and simplicity—they are easier to operate than the current system.

Michael Matheson (Central Scotland) (SNP): I have indicated previously that I have serious reservations about the way in which the changes have been drafted. Principally, I am concerned that they have been drafted by parties that have a vested interest in the process. That is not intended to be a negative point; it simply reflects the reality of the situation. The Law Society must consider the interests of practitioners. The Scottish Legal

Aid Board is concerned to manage the budget and to simplify the system for itself. There has been a lack of detailed scrutiny of the regulations.

I note the correspondence that we have received from Scottish Women's Aid, the Scottish Consumer Council and the Association of Independent Law Accountants. We have not really got to the bottom of the matter. Many questions remain unanswered. Scottish Women's Aid is keen for some kind of review system to be established, so that we can monitor how changes affect the system if and when they are implemented. That suggests that there is still considerable doubt about what will happen on the ground with the new regulations. I was interested to note that the Association of Independent Law Accountants is now working with the fifth or sixth draft of the table of fees, which suggests that developments remain rather fluid.

In my view, we need time to consider the issue in detail. We need to consider the implications of the new regulations on the ground. I am conscious of the time limits to which we are subject because of the forthcoming dissolution of Parliament. I would not want the committee to appear to be obstructing some very positive measures. However, the regulations may also contain some very negative measures that we have not had time to consider in detail.

I am reluctant to say that we should readily support the regulations without ensuring that there is a mechanism for reviewing them, as suggested by Scottish Women's Aid. If negative features of the regulations become apparent once they are in force, the Executive should commit itself to taking action to remedy that problem.

The Convener: Section 4 on page 4 of the letter that I received from the Scottish Executive dated 3 March is headed "Review of the new system". It states:

"The operation of the package will be reviewed by the end of 2005."

I make that point for information purposes. I am not coming down on one side or the other—I am just taking soundings. It sounds as though two members would like to take further evidence.

Maureen Macmillan (Highlands and Islands) (Lab): I agree with much of what Michael Matheson has said. However, the Association of Independent Law Accountants also has a vested interest. There now appears to be a spat between the AILA on one side and the Law Society and SLAB on the other, with Scottish Women's Aid as pigs in the middle. I think that the process has been badly handled from the start. There should have been more input from organisations such as Scottish Women's Aid and Victim Support Scotland to ensure that the needs of people who are affected by legal aid were considered.

We need to clear up this point, to determine whether there is something substantial in it. However, I do not know whether we need another evidence-taking session, as we have quite a lot of correspondence on the issue. If we can question the minister, that may be sufficient. Nonetheless, we ought to ensure that the effects of the changes in legal aid are monitored, not just two years down the line, but right from the start.

Paul Martin (Glasgow Springburn) (Lab): I agree with a number of the points that Michael Matheson raised about vested interests. However, it is always the case that the organisations that take part in our proceedings are not necessarily those that are affected as client groups. I am afraid that, rather than entering a process of outreaching, we tend to have the usual groups as witnesses.

I do not think that we will be able to deal with the issue in the time that we have left. The matter will be a legacy issue, although I am not sure about the logistics of that. We should have looked at the ways in which we could have got out there to the people who use the legal aid system, whether through the local authorities or through some other form of engagement. At the moment, as Michael Matheson says, we are consulting the usual suspects. I do not blame them for being involved, because they have put their hands up and said that they want to engage with us.

The question that we face is whether we are reflecting the views of the public who want to use the legal aid system. We are perhaps doing that as MSPs, but are we bringing those views into the committee system? I do not think that we are. I have some ideas of how we could go about doing so, however. We could find out from local authorities which organisations they have in their databases that are involved with legal aid issues on a daily basis and we could engage with those organisations. However, I am not sure that we can deal with the issue in the time that we have left.

Ms Wendy Alexander (Paisley North) (Lab): I apologise for being late, convener. The point about vested interests is important. We feel that the proposals represent a huge advance on the current system and I am concerned that, if we do not deal with the issue now, not only could a new justice minister seek to revisit the matter and take a different view from the one that we have reached, but a new justice committee might not get around to considering the issue until later in the session, which would mean that we would have another year of a less-than-optimal civil legal aid system.

The proposals represent a huge advance on where we are and a yearly review process is built in. Given the choice between two evils, we should secure at least a year of an 80 per cent or 90 per

cent better system. The legacy paper could suggest that the new committee revisit the new regulations. Given that the meeting last week went so well, my inclination would be to resist the possibility of a new justice minister or a new justice committee either kicking out everything that we have achieved so far or delaying its implementation for another full financial year.

The Convener: Thank you. There are some practicalities to consider. A motion to annul the proposed regulations would have to be lodged before our meeting. That could be done and we could call the minister before the committee to debate the motion and answer questions. The motion could then be either voted on or withdrawn. Alternatively, we could simply note our concerns and leave the matter for the next justice committee and justice minister. Those are the only options that are open to us, because of the timetabling of the regulations. Any member can lodge a motion. The problem for us is that we would have to know whether any member intended to do so, so that we could invite the minister along to question him on the motion.

Donald Gorrie: Can we take up the point that Michael Matheson and others have raised about the review? We are told by the Executive:

"The operation of the package will be reviewed by the end of 2005."

The package will start in October 2003, so there will be two years before the end of the review. I do not know how long a review will take, but perhaps we could ask for it to be undertaken before the end of 2004. That would be a step forward.

The Convener: That is an excellent suggestion. The Executive suggests a long period. After two years, we should be able to get a measure of how the regulations are working in practice.

14:00

Michael Matheson: I have three things to say. I have already expressed my concerns about the process that has been used to arrive at the new regulations. I am keen to ensure that, if we pass the regulations, we make it clear that the drafting process should be different, that a wider body of counsel should be sought when such major changes are considered and that there should be a mechanism that allows interested parties to comment on the changes within a reasonable time scale to allow their views to be taken into consideration and for any amendments to be made.

We should highlight the problems with the process that has been used. I get the distinct impression that people in the Law Society to whom I have spoken recognise that there have been some failings in that process, but it is worth

putting that on the record, possibly with the minister. His comments when he was last before the committee indicated that he was sympathetic to the idea that we should seek better ways of redrafting the regulations.

Secondly, there is a need to bring forward the proposed review. I go along Donald Gorrie's suggestion on when the next review should take place. Thirdly, it would be worth while involving organisations such as Scottish Women's Aid in some type of informal review while the new regulations are coming into force so that those organisations can discuss with SLAB and the Law Society any problems that present themselves at an early stage. I do not know whether such organisations would be interested in doing that, but it would mean that they did not have to wait until the review started before they flagged up any issues that are encountered.

The Convener: You have raised three issues: the consultation process; the shortening of the review period; and post-legislative scrutiny—I think that that is what you are referring to—which can go on all the time. We have already made the point that, when legislation has passed through the committee, we should be able to consider it later. If there are practical issues—even before the review period—we or our successor committee could engage in such scrutiny. That is a proper point.

Michael Matheson: That is not really what I was suggesting. My third point was that there should be some type of working party, in which organisations such as Scottish Women's Aid, which clearly has a particular interest in the issue, could be in continuous dialogue with the Law Society and SLAB so that, once the regulations are implemented, any problems can be highlighted. There should be some type of mechanism for Scottish Women's Aid to feed such problems into SLAB. Perhaps we need to put something in the legacy paper to enable the successor committee to consider the issue. However, it is clear from what Scottish Women's Aid says in its paper that it would like some type of on-going monitoring of the regulations once they are implemented.

The Convener: Is the rest of the committee content that we put something along those lines in our report? The mechanism would be to draft our report but to allow the regulations to be passed. In those circumstances, we would not require the minister to come next week. Do I take it that we are content that the clerks write a draft report to highlight the concerns that members have raised, e-mail it round and then send it as our response to the regulations?

Lord James Douglas-Hamilton: That would be sensible, as it meets Wendy Alexander's point.

Moreover, the practitioners expect us to be decisive. The successor committee can revisit the matter in depth.

Ms Alexander: I am looking for clarification from Michael Matheson. Three issues have emerged in the papers. One is the process, on which we have commented. The second is Scottish Women's Aid's specific concerns, which in large part seem to have been met, but which it is appropriate to review within the context of the guidelines.

However, by far the most persuasive submission, which outlines the issue that we need to express in the legacy paper, is the one from the Scottish Consumer Council. The SCC rightly says that the problem is that the regulations have tidied up the system around the private client model, whereas there is no doubt that the financial aid available in the civil justice system needs to move more towards the needs of those using the system. The SCC points out that the proposals do not make the system better for the large number of people who have difficulty accessing civil justice—all of us have seen that problem in our constituency case work. I am not suggesting that we want to embark on that now. I am saying simply that in the legacy paper—

The Convener: Perhaps that is in our report on legal aid—

Ms Alexander: I want the legacy paper to raise the issue. I am all for saying, "Let's review how this has worked vis-à-vis Scottish Women's Aid." However, if we are going to have a working party, the issue is not Scottish Women's Aid and whether the regulations tidy up the system; the issue is the purpose of civil legal aid. I am not trying to be difficult. Let us say that Scottish Women's Aid and others can report regularly. However, if we are saying that there needs to be a wider or longer-term review, as the SCC suggests, that is an issue for the legacy paper.

The Convener: That will be in the legacy paper. Our report on civil legal aid dealt with access to legal aid, the financial tests and eligibility, which is a bigger issue in many respects. The Scottish Women's Aid paper raises that issue as well as a lot of points about access to documents and forms—those points do not pertain to the regulations, but we have addressed them to some extent in our inquiry. We should raise the other issues of access to justice—not just the problems with swings and roundabouts in consultation, but financial eligibility and probability tests. Those issues have to be examined, because we fear that people are being denied access. We should circulate a draft report, which we can strengthen and beef up between now and the next meeting.

Michael Matheson: I want to clarify the points that Wendy Alexander raised. The last paragraph

on page 1 of the Scottish Women's Aid paper states:

"It is crucial that ongoing monitoring is carried out during this period, with a report to the Justice Committee and a public report every 6 months."

A review after a year would perhaps be adequate. We should ensure that, in the first year, organisations such as Scottish Women's Aid should have an open door to SLAB and the Law Society, so that problems can be flagged up before the formal review process starts.

The Convener: I sent the clerks an e-mail about Scottish welfare law practitioners, because there might be a feeling that the swings and roundabouts will not work for them, given the kind of cases with which they deal. This is really a matter for our successor committee, but we should let the minister know about other organisations and interested parties that should be part of the consultation and the working party. We are content to pursue the matter in a report.

Annual Report

The Convener: I refer members to paper J2/03/7/8, which is our draft annual report, detailing the work of the committee from 12 May 2002 to 16 March 2003—how the months have flown. The report follows the format used for previous annual reports, as agreed by the Conveners Group. We have noticed the typographical error—the report is of the Justice 1 Committee, although we could pass it off as being from the Justice 2 Committee. I invite comments from members. Do members want me to go through it paragraph by paragraph or do they just want to make comments?

Lord James Douglas-Hamilton: We should go through it page by page.

The Convener: There is nothing to discuss on the first page; it just says who we are. Lord James Douglas-Hamilton has thrown me, because the paper that he has in front of him is peach coloured. I think that you have the wrong paper, James; we are looking at J2/03/7/8. The first page is fine. Does anyone want to raise points about the second page? This is like asking a class to read an exam paper; it has gone quiet in here. Read all the questions, then make your selection.

Maureen Macmillan: Can we say that a lot of people went away happier after our scrutiny? I feel that we did a good job with the Title Conditions (Scotland) Bill.

The Convener: I do not think that we could say that. That would be preening—heaven forbid. However, we might say that the committee found the interaction with witnesses useful, particularly with regard to devolved management.

Maureen Macmillan: I would include interaction with the Executive, which seemed open to change.

The Convener: Yes, because it moved on devolved management and sheltered accommodation. Okay. Let us move on to the next page.

Ms Alexander: Perhaps we should flag up the fact that we have prepared a legacy paper that identifies the issues that we think a future committee should address. I started amending the report by mentioning common services, rebuilding and so on. I do not now think that that is appropriate. Instead, we should have a paragraph that notes that the legacy paper highlights several areas that we feel our successors should tackle.

The Convener: Because of the sensitivity about why we hold meetings in private and whether we should do so, I thought that paragraph 13 should explain in bold type specifically what we were doing in meetings that were held partially in

private. We should also stress that all outcomes are made clear in public session.

Ms Alexander: I thought that we should say that 27 meetings were held overwhelmingly in public, convening in private only for specific items. That is the reality of how we have met; I would just prefer to reverse the way in which it is described.

The Convener: That is a ministerial way of doing it.

Ms Alexander: That is a spin way of doing it.

The Convener: You are quite right to take us down that road.

Donald Gorrie: “Overwhelmingly” is a bit of spin, but I take the point.

The Convener: Is this a split in the coalition?

Donald Gorrie: No. Our approach should be positive, but not exaggerated.

The Convener: Are we content with the draft report with those amendments?

Members indicated agreement.

The Convener: We agreed at previous meetings that the remaining items on the agenda—the legacy paper and our report on alternatives to custody—would be discussed in private.

14:12

Meeting suspended until 14:25 and thereafter continued in private until 14:57.

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