

JUSTICE 1 COMMITTEE

Tuesday 10 June 2003
(*Morning*)

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2003.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 10 June 2003

	Col.
INTERESTS	1
CONVENER	2
DEPUTY CONVENER	2
LEGACY PAPERS	3

JUSTICE 1 COMMITTEE

1st Meeting 2003, Session 2

OLDEST COMMITTEE MEMBER

*Marlyn Glen (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)

*Pauline McNeill (Glasgow Kelvin) (Lab)

*Michael Matheson (Central Scotland) (SNP)

*Margaret Mitchell (Central Scotland) (Con)

*Mr Stewart Maxwell (West of Scotland) (SNP)

*Mrs Margaret Smith (Edinburgh West) (LD)

*attended

CLERK TO THE COMMITTEE

Alison Taylor

SENIOR ASSISTANT CLERK

Claire Menzies Smith

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 2

Scottish Parliament

Justice 1 Committee

Tuesday 10 June 2003

(Morning)

[THE OLDEST COMMITTEE MEMBER *opened the meeting at 10:32*]

Marlyn Glen (Oldest Committee Member): I am delighted to declare the meeting open. I welcome members to the first meeting of the Justice 1 Committee in session 2 of the Scottish Parliament. I look forward to working with members in delivering the committee's work programme.

I extend a welcome to members of the press. I remind those present to ensure that their mobile phones and pagers are switched off.

Interests

Marlyn Glen: Members are invited to declare any relevant interests. I have no registrable interests to declare.

Pauline McNeill (Glasgow Kelvin) (Lab): I declare that I am a member of the board of Routes Out of Prostitution. I do not think that that is a registrable interest, but I would like it to be known.

Margaret Mitchell (Central Scotland) (Con): I have no interests to declare.

Mrs Margaret Smith (Edinburgh West) (LD): I have no interests to declare.

Mr Stewart Maxwell (West of Scotland) (SNP): I do not think that this is a registrable interest, but I declare that I was employed by Strathclyde fire brigade for just over 10 years, as that is relevant to the committee.

Bill Butler (Glasgow Anniesland) (Lab): These are not registrable interests, but I declare that I am a member of the GMB union, the Educational Institute of Scotland and the Co-operative Party.

Convener

Marlyn Glen: The Parliament has agreed that members of the Labour party are eligible for nomination as convener of the committee. I seek nominations from members of that party.

Bill Butler: It is my great pleasure to nominate Pauline McNeill MSP as convener of the Justice 1 Committee for this session.

Marlyn Glen: One nomination has been received.

Pauline McNeill was chosen as convener.

The Convener (Pauline McNeill): I thank the committee for that vote of confidence. I also thank Marlyn Glen, who was in the convener's chair as the wisest member of the committee, for conducting proceedings this morning.

Deputy Convener

The Convener: The Parliament has agreed that members of the Scottish National Party are eligible for nomination as deputy convener of the committee.

Mrs Smith: I nominate Stewart Maxwell.

Mr Stewart Maxwell was chosen as deputy convener.

The Convener: I congratulate Stewart Maxwell on his appointment.

Legacy Papers

The Convener: Item 4 is consideration of the legacy papers of the Justice 1 Committee and the Justice 2 Committee from the previous session. Members will note that this morning's meeting is brief—we must be out of the room by 11.20 to allow another committee to come in. The Health Committee completed its proceedings in 37 minutes this morning. If members want to beat that record, it is up to them.

Members have received a number of papers, one of which was prepared by the Scottish Parliament information centre. It is a subject profile of issues with which the Parliament has already dealt and members will find it helpful. Members also have copies of the legacy papers of the Justice 1 Committee and the Justice 2 Committee. I invite members to discuss the legacy papers and possible future areas of interest. We will not agree a work programme today, but members have an opportunity to consider and ask questions about possible areas of interest.

I welcome Michael Matheson to the meeting and invite him to make a declaration of interests to the committee.

Michael Matheson (Central Scotland) (SNP): I apologise for being late—that was the fault of ScotRail. I have nothing to declare.

The Convener: I am sure that ScotRail will be a feature of future meetings.

I invite members to comment on or ask questions about the legacy papers of the Justice 1 Committee and the Justice 2 Committee. Michael Matheson was a member of the previous Justice 1 Committee and I was a member of the previous Justice 2 Committee, so there is some continuity. We can assist new members by providing background on some of the inquiries that were conducted and some of the work that was undertaken.

Michael Matheson: I want to pick up a couple of the issues that are raised in the legacy papers. The first relates to the Protection from Abuse (Scotland) Act 2001. The Justice 1 Committee legacy paper states that research was being carried out to ascertain the act's influence and effectiveness, and that the results were due to be published in May. Have we received any information about those results? That is worth checking, as the act—which was introduced by the Justice and Home Affairs Committee—was the first committee bill passed by the Parliament.

The Convener: I understand that the Executive is carrying out the work to which the member refers, but that no conclusions have yet been reached.

Michael Matheson: When I was a member of the previous Justice 1 Committee, I was conscious that an increasing number of directives were being issued and an increasing amount of legislation was being passed in Europe that had a direct impact on the Scottish justice system, both civil and criminal. We need to ensure that there is a proper mechanism in place that allows the committee to be kept up to date with developments in Europe. When there is an opportunity for us to consider issues in detail, we should be given that opportunity. Proposals must be flagged up at an early stage, as often we hear about them quite late on. I suspect that the committee would find that helpful, as it would provide members with a better grasp of what is happening in Europe and of its impact on the Scottish justice system.

The Convener: I agree with Michael Matheson about the need for us to take an interest in European matters. The previous Justice 2 Committee received briefings on the justice pillar and how it related to the committee's work. Decisions are taken in the areas of both criminal and civil justice that can affect—and have already affected—Scots law, but the Scottish Parliament has made no real democratic input into those decisions.

The previous Justice 2 Committee scrutinised and received briefings on one or two regulations, to see where that took us. We called Peter Beaton, the Scottish Executive official who represents the Executive in Europe, to give evidence to the committee. That allowed us to track what was happening at the European level. If we had had time, we would have gone further and might have talked to the relevant European Parliament committee. We must ensure that we influence the process at an early stage.

In principle, I would like to put down a marker and to say that the issue that Michael Matheson has raised is important. Members are not aware how much legislation is being passed in Europe that relates to the work that we do.

Mrs Smith: I echo your words, convener. This is an important issue and it would be useful—not only to this committee—if we did what the convener suggests. During the previous session, committee conveners were aware that this was an increasingly important matter that we had not addressed. We need to get the timing right and to be aware when a measure is coming down the European track. Often we do not work out what is happening until far too late in the day.

It will be useful for the committee not only to pick up specific proposals that it wants to influence, but to share any work that it does or progress that it makes with other committees. Several conveners identified the issue as a problem with which we had not yet come to grips.

The Convener: Would members like us to prepare a note on on-going work relating to justice, so that they can decide whether they would like to incorporate scrutiny of specific regulations into our work programme?

Mrs Smith: Can members who do not have previous experience on the justice committees receive a general briefing on how justice is structured at the European level?

The Convener: Yes.

Margaret Mitchell: Can we consider the issue of family law? The matter has been flagged up, but it has never been considered in depth. It would be good if we were able to move forward in that area.

The Convener: A briefing on aspects of family law is available, as we asked for that to be provided. We can provide the member with a note on outstanding issues relating to family law, covering succession and the whole gamut of family law.

Bill Butler: I notice that Sewel motions were the subject of some discussion in the predecessor committees. It was suggested that we might approach the Procedures Committee, following discussion of its proposal for Sewel motions not always to be debated in the chamber but to be referred to the relevant subject committee. This is a small point, but we may want to take some time to consider it.

The Convener: I agree. Towards the end of the previous session, the justice committees considered two Sewel motions to see how that went. The issue that Bill Butler raises should be on our agenda for consideration in future.

Mr Maxwell: I have a question about paragraph 36 of the Justice 1 Committee legacy paper, which concerns petition PE14, on the Carbeth hutters. The paper states:

"This is one of the very first petitions considered by the committees of the Parliament".

However, the committee is still awaiting a response from the Executive on the issue. Can we find out when we are likely to receive such a response? Once we have heard from the Executive, we can decide whether we want to pursue the matter. We seem to have been waiting a long time for a response.

The Convener: I know something about the petition to which the member refers. Michael Matheson may also want to comment on it. I understand that the Executive has conducted a consultation exercise on arrangements throughout Scotland, rather than just in Carbeth. The Parliament cannot legislate for only one area of Scotland. There were difficulties in moving in a particular direction, although some

recommendations were made. We can provide the member with an up-to-date picture of the situation.

10:45

Michael Matheson: I echo what the convener said, and add that I understand that in the past year or so some progress has been made on the Carbeth hutters situation, so the issue is not as pressing as it was when the petition was originally lodged with the Justice and Home Affairs Committee. There has been a change of heart on the part of the landowner, but it is clear that some outstanding issues have to be addressed.

While we are on petitions, I flag up those on dangerous driving. That long-standing issue was being pursued by the Justice 1 Committee but was dragging on because various research projects were being carried out. The issue was pushed strongly by a number of interested organisations, which welcomed the fact that the Justice 1 Committee was continuing to examine it. The legacy paper flags up a number of outstanding issues that we might want to keep in mind. The committee may wish to keep those petitions alive, given the work that has already been carried out.

The Convener: That is a helpful suggestion.

Before I call Margaret Smith, I tell members that just because one of the previous justice committees tackled an issue—through an inquiry, for example—that does not mean that we cannot pick it up. Members of the previous justice committees would agree that we might need to press the Executive further on a couple of points. Although the work may have been done, we could take some of it to another stage.

One such area might be the inquiry into the legal profession and another might be the inquiry into the Procurator Fiscal Service, because the Justice 2 Committee recommended that we should return to the issue at a future date and check that everything is as it should be.

Mrs Smith: I wanted to pick up on both those points and add others from the legacy paper. We may need to go back and look at legal aid again. In addition, I know that some work has already been done on alternatives to custody, which is a big issue given our prison population. We need to tackle the nub of the justice problem, which is how we prevent people from offending in the first place or from reoffending. On alternatives to custody, we need information about which measures are most effective. Some work has been done on that issue, but there is probably scope to do some more.

The Convener: We could incorporate sentencing policy into that, and not restrict our work to alternatives to custody, given that the partnership document refers to a sentencing

commission. I do not know much about that, but sentencing has become quite controversial. There are a variety of views on whether people should serve their full sentences or whether prisons and behaviour could be managed better by allowing time off for good behaviour. It might be worth taking on board the Justice 1 Committee report on alternatives to custody, encompassing sentencing policy as a whole and linking that to a sentencing commission.

Mrs Smith: Like the convener, I do not know much about the sentencing commission. From what I have managed to pick up so far, I think that that work will happen sooner rather than later in the coming four years, which heads us in the direction of addressing the matter sooner rather than later.

Bill Butler: Another issue is raised in paragraph 41 of the legacy paper, on page 22, which refers to petition PE124 from Grandparents Apart Self Help, of which I guess I am a patron or an honorary president or something like that—I do not know whether that is a registrable interest.

The issue is serious. The suggestion from our predecessor committee is that we

“may wish to monitor the Minister’s investigation of family mediation for grandparents and the wider family and ... any available academic studies on the effects on children who do not have access to their grandparents.”

Could we examine that issue and keep it alive, because it causes concern and considerable heartache for a number of grandparents throughout Scotland?

The Convener: Yes. The Justice 2 Committee discussed the issue for some reason—I cannot remember why—and that was the conclusion that we came to. The petition was the Justice 1 Committee’s, and it came to the right conclusion, in so far as saying that the Children (Scotland) Act 1995 governs such issues and directs which people it is in a child’s interests to have access to, which includes grandparents. As you say, it would be worth monitoring whether the legislation is operating correctly, because costs are attached to taking up those access rights.

Bill Butler: Indeed they are, and cost can be a hindrance to access for grandparents. If possible, I would like that issue to be examined.

Mrs Smith: In my ignorance, I have a point of clarification. If that issue is covered by the Children (Scotland) Act 1995, could it find its way into the proposed family law bill?

The Convener: If we wanted to move on that issue we would probably do so in the family law bill, because amendments would be required to the Children (Scotland) Act 1995.

Mrs Smith: Are we thinking of the family law bill coming to one of the justice committees at the tail end of this year?

The Convener: There is no time scale for the family law bill.

Mrs Smith: But it will probably be within the coming calendar year.

The Convener: We can ask about that. We do not have any information on a timetable for the family law bill.

Mrs Smith: It is just that if we know that legislation is coming and there is work that we would like to do, it would be sensible to ensure that we do the work when we can, rather than when we are suddenly hit with the entire bill to consider.

The Convener: We have already asked for a note on family law. We will try to clear up whether there is a time scale for the legislation.

Margaret Mitchell: That is what I was thinking of when I referred to family law. I meant all aspects relating to children, including custodial orders. Would that and social work, as well as parental rights, be covered under family law?

The Convener: Did you say custodial orders?

Margaret Mitchell: Yes, where there is a problem with a child within the home, and that whole area.

The Convener: Yes, that would be covered. Anything about access to children would probably come under family law.

Women’s offending was another area that both justice committees examined periodically and which was a feature of work in the Parliament. The conclusion that we are probably sending too many women to prison is well founded. There are some solutions. I hope that a time-out centre will be started in Glasgow. I do not know the time scale for that, but it is worth keeping an eye on that area to find out what other diversions are available for women in the system.

You can see how the list becomes endless. Members will have time to think about their priorities. While we are making up our minds, we could think about holding a programme of visits early on to allow members to go round the system. We are not assuming that we have all been to a prison—in one way or another. Members might like to visit places that they would like to know more about. That would not commit them to anything, but it would allow them to think about their priorities.

Bill Butler: That is an excellent idea. I am new to this committee, and I would find that helpful in getting to grips with the issues. It would help me to

acclimatise. Visiting institutions, receiving briefings and having an away day or an away half-day would be useful.

Michael Matheson: If committee members are considering visiting a prison, it is worth while doing so with the chief inspector of prisons, because that gives an added insight into the prison establishment, as opposed to being taken round by the prison governor, which gives a different insight. It also gives a feel for the work of the inspectorate, which publishes reports on prisons regularly. I know that when I first visited a prison—Cornton Vale—with the inspectorate, I found it useful, because it gave an added insight into the prison establishment.

The Convener: While we are on that subject, do members have any other bids for places that they would like to visit? I recommend that we have one meeting with the judiciary. It is important to have some kind of relationship with judges in the system. We held some meetings in the last session, which was quite helpful, in particular in sorting out a petition on asbestos victims.

Mrs Smith: We need a briefing on the courts system—how it works, what is likely to end up in which type of court, who works there, who does what and so on. From a complete novice's point of view, I think that that would be useful. We could then build in a couple of visits. Somebody has to take forward the work of the Bonomy commission. Presumably we will have to get involved in that at some point anyway. I am confused about which court does what, so visits early on would be useful.

The Convener: The last item that we will discuss is an away day with the Justice 2 Committee. We can talk about the briefings that members want on the basics of the system at the away day.

Mr Maxwell: I agree with Margaret Smith, and if we are going to visit and discuss the court system so that we can get a handle on who does what and all the rest of it, we should include the children's panel system.

In the near future, we might be examining a fire service reform bill. I have experience of the fire service, but it might be advisable to meet representatives of the Chief and Assistant Chief Fire Officers Association, the Fire Brigades Union and others, if not hold visits. I do not mind whether we visit one of the fire brigades, but it is important that the committee examines the issue.

The Convener: As well as considering the children's panel system—and there is a crossover between the remits of the justice committees and the Education Committee—members might want to consider youth offending. Barnardo's Scotland has projects for offenders aged between seven

and 12. The committee could also consider older offenders in the system. That could even be broken down further if a member had a particular interest.

Margaret Mitchell: I place a bid for a visit to examine social work, to find out more about the pressures that the sector faces and the work that it undertakes.

The Convener: I propose to come up with a list of possibilities. We can decide on members' priorities and start slotting in visits throughout the year. We can even look a year ahead, because we will have to dot visits around, given our work load. We will get an indication of members' priorities, but we will work on what has been said so far.

Is there anything else on the legacy papers?

Mr Maxwell: Paragraph 43 of the legacy paper is on complaints against the police. It states that the deadline for responses was October 2001, that responses are still being analysed, and that any

"future Committee may wish to monitor progress in this area, and might still consider it as an area suitable for investigation."

That is true. If the issue has not been dealt with, we may want to examine it.

The Convener: We will include that point.

Mrs Smith: Is there not something in the partnership agreement that says that we are moving towards an independent police complaints body?

11:00

The Convener: Yes, there is. We will get the most up-to-date note on what the Executive is planning. At some stage, I hope that the most up-to-date positions on the areas that have been mentioned this morning will be provided to members. That will allow us to see which areas will be addressed by the Executive sooner rather than later, which might determine members' priorities.

If there are no last bids, we will come back to the matter later.

I invite members to consider the possibility of an informal away day with members of the Justice 2 Committee. When the two justice committees were established, it was decided that the members would get together when appropriate. We came together when we discussed the budget so that we could question ministers and the Lord Advocate as one committee. Members could consider whether that would be effective in this session. In the first session, members of the justice committees took the view that it was important for the committees to work together. We also thought that it was important for the two committees to have different

time slots, where possible, so that members of one committee could hear about an issue that the other committee was discussing, given the overlap in the work that was done. It would make sense for members of the two committees to have an away day together. Do members agree to that?

Members *indicated agreement.*

The Convener: The away day will probably be held some time at the beginning of September. The clerks will be in contact with members to establish availability.

I do not think that there is any other business.

Mr Maxwell: When is the regular time slot for the committee likely to be? Some of us are members of other committees too.

The Convener: The arrangements for that will be worked out. We will be asked about time slots and the clerks are aware that members have commitments with other committees. There will be scrutiny of that to ensure, as far as possible, that time slots do not clash. I have to say that it has not always been possible to avoid clashes in the past. I warn members that, if the first session is anything to go by, there will be a heavy work load, so, from that point of view, hold on to your seats. We will probably take up the full slot for our meetings most weeks. Members will get another chance to feed into the arrangements. The available slots are Tuesday morning, Tuesday afternoon and Wednesday morning. It is open to committees to meet on Mondays and Fridays, but back benchers have generally taken the view that those days should be constituency days.

It is possible that one of the justice committees will meet before the recess, but it depends which committee will deal with the most urgent legislation. I have not had an opportunity to talk to the convener of the Justice 2 Committee, but I will ask what the Justice 2 Committee wants to do and consider whether we want to meet again. The clerks will contact members individually to establish your interests in areas of legislation.

The two most urgent bills will be on vulnerable witnesses and on antisocial behaviour, for which one of the justice committees will be the secondary committee. There will also be reform of the High Court related to the work of Lord Bonyon, to which Margaret Smith referred. There will probably be time for an inquiry into that, but there will probably not be time for an inquiry into vulnerable witnesses or antisocial behaviour. It would be an idea for members to think about that. A summary of the Bonyon proposals is available in the Scottish Parliament information centre, as is information on vulnerable witnesses. The clerks will contact members to ensure that their preferences are noted.

Thank you all for your attendance and I will see you all perhaps next week.

Meeting closed at 11:04.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 17 June 2003

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

RNID TYPETALK calls welcome on
18001 0131 348 5412
Textphone 0131 348 3415

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers