JUSTICE 1 COMMITTEE

Wednesday 23 June 2004
(*Morning*)

Session 2

£5.00

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

Wednesday 23 June 2004

	Col.
ITEM IN PRIVATE	999
LEGAL PROFESSION INQUIRY	1000
LEGAL FEES (TRANSPARENCY)	1003
EMERGENCY VEHICLES AND DANGEROUS DRIVING	1007
CHILDREN (SCOTLAND) ACT 1995	1010
SECURITY OF TENURE AND RIGHTS OF ACCESS	1013

JUSTICE 1 COMMITTEE
25th Meeting 2004, Session 2

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)
Marlyn Glen (North East Scotland) (Lab)
*Michael Matheson (Central Scotland) (SNP)
*Margaret Mitchell (Central Scotland) (Con)
*Margaret Smith (Edinburgh West) (LD)

*attended

COMMITTEE SUBSTITUTES

Roseanna Cunningham (Perth) (SNP)
Helen Eadie (Dunfermline East) (Lab)
Miss Annabel Goldie (West of Scotland) (Con)
Mike Pringle (Edinburgh South) (LD)

CLERK TO THE COMMITTEE

Alison Walker

SENIOR ASSISTANT CLERK

Douglas Wands

ASSISTANT CLERK

Douglas Thornton

LOCATION

The Chamber

Scottish Parliament

Justice 1 Committee

Wednesday 23 June 2004

(*Morning*)

[THE CONVENER *opened the meeting at 10:05*]

Item in Private

The Convener (Pauline McNeill): Good morning and welcome to the 25th meeting in 2004 of the Justice 1 Committee. We have received no apologies. Margaret Smith will join us around 10.30 or 11 am. As usual, I ask members to switch off pagers and mobile phones.

Agenda item 1 is to invite the committee to consider taking item 7 in private. Agenda item 7 concerns the appointment of an adviser on security of tenure and rights of access for those who own property on leased land. The appointment is connected with the issues left over from a previous petition, which we will discuss later. Is it agreed that we take item 7 in private?

Members *indicated agreement*.

Legal Profession Inquiry

10:06

The Convener: For agenda item 2, the clerk has prepared a note that summarises the responses of the Scottish Executive and the Faculty of Advocates regarding the progress that has been made in implementing the recommendations of the former Justice 1 Committee's report on its inquiry into the regulation of the legal profession. As the note makes clear, the Executive intends to consult on the policy proposals that will represent its position on the recommendations of the former committee's report. We have various options to consider. I am sure that members will welcome in principle the fact that the Executive will consult on the previous committee's recommendations. Do members have any comments?

Michael Matheson (Central Scotland) (SNP): I welcome the fact that the Executive will carry out a public consultation, but the timeframe for the consultation is not clear. It would be helpful to ask the Executive to clarify both the timeframe within which it intends to publish the consultation document and the timetable for implementing its proposals thereafter.

I note from the clerk's paper that the Faculty of Advocates has stated that it has responded to all the points that the committee raised about the faculty's complaints procedure, including the issue of compensation, which the former committee recommended should be up to £5,000 for complaints that are upheld. However, although the faculty has accepted the idea in principle, it is not clear from the letter whether compensation on that scale will be provided. It would be helpful to know whether the faculty intends to offer compensation of up to £5,000.

Mr Stewart Maxwell (West of Scotland) (SNP): I wanted to make that point, too. The first page of the letter from the Faculty of Advocates mentions the £5,000 figure and the five recommendations of the original committee report, but although the opinion that the faculty gives on those five recommendations mentions financial redress, the letter does not state that the faculty has accepted the £5,000 figure. Another issue is that the faculty's letter talks about increasing lay membership of its complaints committees and disciplinary tribunal to 50 per cent, whereas the original recommendation was for at least 50 per cent lay membership. Some clarification needs to be sought on those points.

I am happy to accept the option that is given in paragraph 14 of the note from the clerk. In addition, I suggest that we should write to the

Faculty of Advocates to ask whether financial redress means compensation of up to £5,000 and to ask about the proposed 50:50 representation on the faculty's complaints committees. It is not absolutely clear from the faculty's letter that it accepts the committee's original recommendations. We should also ask about the timescale for implementation. The letter says that the faculty will keep the committee informed about the implementation of the recommendations, but no timescale is given. We should clarify that.

I would also like us to write to the Law Society of Scotland to inquire about timescales for agreeing the joint complaints procedure. The procedure seems to have been agreed by the Faculty of Advocates and the Scottish legal services ombudsman, but it is still sitting with the Law Society awaiting approval. It would be handy if we found out when it will be approved, as I would not like the matter to drift. We are quite close to recess, so we should push the Law Society to give us an idea of the timescale.

We should also write to the Scottish legal services ombudsman, Linda Costelloe Baker, to invite her to the committee. She made some interesting comments in the press recently about the level of complaints against the legal profession. It would be helpful to get the ombudsman along to ask her questions about her recent report and her overall feelings about the progress that has been made.

Margaret Mitchell (Central Scotland) (Con): I welcome the responses on the 2002 report. I am particularly encouraged that the Faculty of Advocates now has concrete proposals, such as the £5,000 penalty and the fact sheet to inform complainers about disciplinary rules. The Law Society has also moved on with concrete proposals, which should be in place in the near future. I am a little disappointed that we are looking only at future consultation from the Scottish Executive, as everyone else seems to have something concrete in place. I would have preferred more progress to have been made. However, I see no way forward, other than to accept the recommendation in paragraph 14.

The Convener: I will summarise where we are. I think that the committee has agreed to the option in paragraph 14. We acknowledge that the Executive will be going out to consultation, but we want to clarify the timescale. Work that arose from the former Justice 1 Committee's report is in progress, so it would be fair to follow it through, as Stewart Maxwell suggests, first by writing to the Faculty of Advocates for clarification on three areas. We should seek clarification on the financial redress of up to £5,000, on the timescale for implementing the changes and on the 50 per cent lay membership rule.

Stewart Maxwell's second suggestion is on the Law Society and its timescale for agreeing to the new joint complaints procedure. I inform the committee that we received a phone call from the Law Society yesterday to tell us that that procedure has been agreed. However, we should seek that information formally and we will provide it to committee members in writing.

Mr Maxwell: I am pleased that the Law Society has informed us, even informally, that the joint complaints procedure has now been agreed. Now that the Faculty of Advocates, the legal services ombudsman and the Law Society have all agreed that procedure, we should ask for the timescale for its implementation.

The Convener: We will have that clarified. Your other suggestion, which I forgot to mention, was to extend an invitation to the legal services ombudsman, Linda Costelloe Baker. That is a good idea because, independently of the recommendations in the former Justice 1 Committee report, we have been pursuing one or two issues ourselves. We could use such a meeting to make progress and to provide input into the consultation when it is called. Is that agreed?

Members *indicated agreement.*

Legal Fees (Transparency)

10:14

The Convener: Item 3 is on the related topic of legal fees. The committee will recall that we first considered the issue at our meeting on 31 March, in response to a letter from Margo MacDonald about a constituent of hers who had a dispute about legal fees and who had complained about the auditor of court. We thought that the issue was worth pursuing. We have received some information from the Law Society that outlines how fees are calculated; it is in members' papers. I thought that it was important to deal with the matter separately from the regulation of the legal profession, given that we had pursued it independently through correspondence.

I invite members to comment. We know that the ombudsman shares our view that the issue of transparency in legal fees needs to be pursued further. In particular, letters of engagement—which are just letters to clients that indicate roughly what the costs will be—require consideration. The ombudsman had been concerned that, although some solicitors were issuing letters of engagement, not all of them were doing that as a matter of procedure. Members will note from their papers that the Law Society is considering the issue at its meeting, which I think is at the end of this week.

Margaret Mitchell: I have examined all the options in the note by the clerk, paper J1/S2/04/25/2, and I favour option (b) as an initial way of progressing the matter. That would involve accepting the offer of having a meeting with members of the Law Society's remuneration committee to discuss the transparency of fees. I feel that having such a meeting would give us the benefit of receiving responses to our questions and would allow us to decide on a positive way of proceeding.

Bill Butler (Glasgow Anniesland) (Lab): I agree with Margaret Mitchell. I think that, initially, we should choose option (b). Once we have met with that body, we can consider what other steps are necessary. That is the way forward that I support.

Michael Matheson: To an extent, I go along with that suggestion. Given that the Law Society is intending to consider the matter this week—I believe that its meeting is on 25 June, not 23 June, as our papers suggest—it might be useful to have a meeting with the remuneration committee at some point after that if the Law Society refuses to introduce a procedure of issuing letters of engagement. However, if the Law Society introduces such a procedure, which is the main issue that we have been focusing on, I wonder what we would discuss with the remuneration committee. If we intend to carry out some more detailed work on the transparency of legal fees overall, such a meeting would be fair enough but, if all that we want to discuss is the sending out of letters of engagement, I am not sure what we would gain from a meeting if the Law Society agrees at the end of this week to implement such a procedure. If we are to meet the remuneration committee in those circumstances, it would be helpful to have some clarification of where we are going.

The Convener: It is important to highlight some of the background issues that have arisen as a result of the original correspondence from Mr Wilson. Members will note that there is a late paper that draws attention to Mr Wilson's experience.

There are two issues. The first is about letters of engagement and the second is about itemised bills—the bills that people get at the end of the process. Mr Wilson's dispute, which was about the itemised bill, involved the auditor of court. Although he was successful in reducing his bill, he still felt that the fee was too high and that it was difficult to check whether his bill was correct.

The area is complex and I do not think that we should attempt to simplify it. I think that the issue that we should pursue is the situation that ordinary people who have never previously engaged a solicitor find themselves in when they walk in off the street. They are afraid of walking through solicitors' doors, because they do not know what the bill will be at the end of the day.

I accept that the work cannot be predicted, because the lawyer does not know exactly what will need to be done, but more could be done by the profession to get people to understand at an early stage what the costs will be. To be honest, I was astonished to find that in Scotland we do not have letters of engagement as a matter of routine.

I suppose that the fees table that we have been given might be straightforward for a solicitor, but a truck could be driven through it, because one can pick and choose the items on it. It is not a question of suggesting that the profession is not issuing accurate itemised bills; the issue is ensuring that the process is transparent. That is what I picked up from Mr Wilson's case and we should pursue it. As it happens, the ombudsman also believes that there is an issue.

It may well be that, by the time the Law Society meets at the end of this week, the issue will have been resolved, which would be good news. The committee could then decide whether there is still work to be done or whether it wants to leave the issue to the Executive consultation.

Margaret Mitchell: You are right, convener. It would be worth meeting the Law Society to discuss itemised billing. There is a balance to be struck. It could be too onerous to log every phone call but, equally, we are conscious that there are issues of transparency. The general public should have a clear and realistic breakdown of what they are being charged for. Such issues could be clarified. It would be worth while meeting the Law Society—putting to one side the issue of the letter of engagement—even if the issue is resolved.

The Convener: How does the committee wish to proceed?

Mr Maxwell: I have listened to the discussion and I agree with Michael Matheson. What we do depends on what happens this week at the Law Society's meeting. I am not sure that there would be much point in our having a meeting to discuss only one item. Option (d) in the note from the clerk is to write to the Law Society about ensuring that people know that they have the option to have their account audited. We could widen that out and write to the Law Society on the overarching point about the final itemised bill being clear. I am not sure whether it would be worth having a meeting before we get that response, particularly in light of the fact that the other issue may be resolved by the end of the week. I would like to do the letter first, wait and see what happens with the meeting, then take a decision on whether we should have a meeting.

The Convener: That would be sensible. We would not rule out option (b), which is to have a meeting with the Law Society, but, in the meantime, we would await the outcome of its meeting. We will proceed with an invitation to the ombudsman to come to the committee as per the previous item, which would allow us to put questions to her on the issue that we are pursuing. After that, if we are not satisfied that progress is being made, we can come back to option (b), which is to consider having a meeting with the Law Society—as it has offered to do—or to appoint a reporter on the subject.

Margaret Mitchell: I am happy for us to do that, if that is the will of the committee.

The Convener: I think that that is the consensus. Before we close the item, we should note on the record that the Executive's response is encouraging, because it seems to agree that there should be a rule that requires solicitors to send out letters of engagement. In her letter, the Minister for Justice states that, in her view,

"it would be in the interests of the users of legal services in Scotland if there was a practice rule".

There is also something in the letter about the auditor of court. I am pleased with the Executive's response, because it agrees with our position, which is helpful in making progress.

Emergency Vehicles and Dangerous Driving

10:24

The Convener: Agenda item 4 concerns emergency vehicles and dangerous driving. I refer members to the note that has been prepared by the clerk, which sets out recent correspondence from the Scottish Executive and from the Chief and Assistant Chief Fire Officers Association regarding the driver training programmes that are provided for emergency service drivers. I invite the committee to comment on the correspondence that it has received.

One of the issues that we have raised is whether there is enough information for the general public on how to get out of the way of an emergency vehicle. Most of us have probably been in the situation where there is total chaos on the road and no one knows what to do. People know that they should stop, but they often stop in the most awkward positions. The Executive's response is that the highway code contains a provision that tells people what to do. That is all very well, but perhaps some public information on the best way in which to deal with emergency vehicles on the road might highlight the provisions in the highway code. The essential element of petition PE111—the aftermath of the correspondence on which we are dealing with, although the petition is now closed—is the standard of driving. A number of incidents were referred to in the petition, which was from Frank Harvey.

Mr Maxwell: I agree with you about people's ignorance of the highway code in respect of what to do in such situations. Perhaps we should highlight that to the Executive. The Executive has a budget for funding public education and information programmes, and perhaps it could consider such a programme.

I was reasonably pleased with the letters that we received, particularly the one from CACFOA, which seems to be making progress towards uniformity of training. Six of the eight brigades already have in place much of what was requested, and it would appear that the other two are determined to do so. My only slight concern—perhaps I am being overly picky with the wording of the letter—is in relation to the last paragraph, which says:

"Within Grampian Fire and Rescue Services, officers selected to be temporarily promoted into posts that require response driving skills also receive appropriate training to equip them with the necessary skills."

Officers who are suddenly temporarily promoted to the rank of assistant divisional officer, and are given a vehicle with a blue light on top, may never have driven under blue-light conditions until that set of keys is handed over. I would like further clarification of and information on what is deemed to be appropriate training. Is it an hour out with an instructor? Is it more than that? Is it a guidance note, telling the officer that they should do X, Y and Z? Because of my background I am aware of concern about that, but the matter was also raised by the Fire Brigades Union and others.

Michael Matheson: It would be particularly helpful to know whether the fire brigades driver training group and the sub-committee that has been established by CACFOA to consider aligning training among the different brigades will consider that issue. Judging by the papers that we have received, the issue would seem to be relevant to the remit of the sub-committee, which is trying to standardise the competence-based development programme.

The Convener: Before we close our work on the outcome of the petition, we should have those two points clarified. CACFOA responds to the question of the highway code and the public's knowledge of what to do. It supports the view that public information should be made more widely available.

Michael Matheson: The letter from CACFOA says:

"I have previously campaigned to have an inclusion in the Highway Code on this matter."

My reading of that is that CACFOA's interpretation of the highway code is that there is nothing in it on this matter, yet it would appear from the Executive's response that the highway code contains such a provision. It may be worth flagging up that point to CACFOA, if it is running some type of public information programme.

The Convener: I will read the provision in the highway code and we might see what the problem is. It states:

"You should look and listen for ambulances, fire engines, police or other emergency vehicles using flashing blue, red or green lights, headlights or sirens. When one approaches do not panic. Consider the route of the emergency vehicle and take appropriate action to let it pass."

Taking appropriate action to let the emergency vehicle pass is not that easy if it is a busy road and no one knows where to start piling on to the side of the road. The highway code continues:

"If necessary, pull to the side of the road and stop, but do not endanger other road users."

There is a provision in the highway code—that is it. A bit of public information could be made available on what that provision means. If a driver stops in the middle of the road, that is not helpful to a fire engine that is behind them and there might not be any space for the driver to pull in.

Mr Maxwell: I am not sure that saying "do not panic" is of much help.

Michael Matheson: When people are told not to panic, there is a tendency for them to panic.

Mr Maxwell: It reminds me of "The Hitchhiker's Guide to the Galaxy" rather than the highway code.

Michael Matheson: It might be worth getting CACFOA's view on whether the provisions in the highway code are sufficient; if it thinks that they are not, it may want to take that up with the relevant minister, who may be able to address the issue.

The Convener: We should include the previous two points and make reference to the provision in the highway code. The response from CACFOA states that it has campaigned previously to have the issue included in the highway code, yet there is a provision in the code. We should clarify that point. We should state that this is a reserved issue and that we cannot do anything about that point, but that the existence of the provision in the code could be promoted and some public information work could be done on it. We could copy the letter to the Executive, which would save us having to write to it separately.

Members indicated agreement.

Children (Scotland) Act 1995

10:32

The Convener: Item 5 is the Children (Scotland) Act 1995; Frazer McCallum from the Scottish Parliament information centre is with us for this agenda item. I refer to the paper prepared by the clerk, which sets out the response from the Executive on access rights to children in the context of its current consultation on family law. There is also a note by SPICe on the use of mediation in the United States, Australia and the Netherlands. I invite the committee to consider the response.

On the use of mediation in relation to access to children, the minister makes the point that mediation usually involves agreement by both parties that they will take part; in effect, where there is such agreement, mediation is currently available. When we discussed the matter previously, what was in my mind was that there should be more stringent obligations on guardians and parents to participate in a non-court forum in the first place. I take the point that mediation may be the wrong word, because if that word is used, the agreement of both parties is being sought. I feel that a mechanism in the system should force guardians and parents to sit down and discuss the welfare interests of the child and, as far as possible, take the matter away from the court.

If someone wants to adjust any provision that is made by a court, it is necessary for them to go back to court and go through the whole process again, and that carries a financial burden. The court does not monitor whether access arrangements are being adhered to, so if they are not, it is necessary to go back to court. Something needs to be put in place to make the system much more oriented towards the welfare of children.

It is possible that the committee will deal with the proposed family law bill. There will be an opportunity—regardless of which committee considers that bill—for some of the issues contained in the petition to be raised.

Mr Maxwell: Irrespective of whether the Justice 1 Committee or the Justice 2 Committee considers the bill, the most appropriate place for the issue to be discussed is in the context of the bill, rather than in isolation. The matter is very important and it is obvious that it is of great concern to a large number of individuals. However, the issues would get the best airing within the context of the proposed family law bill. Much more evidence could be taken and there could be much more in-depth analysis of the matter at that point.

Margaret Mitchell: I would like to emphasise the matter by writing to the Minister for Justice in

the light of the correspondence that we have received regarding access rights for fathers. We should seek a specific commitment that their position will be considered following the deterioration of the relationship with the mother. Much has been said about grandparents and the wider family, but it would be worth while pinning down the issue of fathers, which is contentious.

Bill Butler: The forthcoming family law bill is the appropriate context in which to look at ways forward. The convener has mentioned mediation, whether formal or more informal, and ways of facilitating it. The interests of the child or children are paramount in whatever structure we come up with. As the family law bill is imminent and we will be the committee to interrogate it, that bill will provide the appropriate context in which to discuss such complex and traumatic issues. We could make use of some of the excellent background notes on international experience that SPICe has provided us with; there seems to be a range of ways to approach the subject.

The Convener: In relation to Margaret Mitchell's question about the consideration of fathers' rights, I note that the response from the minister says that the consultation

"will include the position of parents—including fathers—who are unable to resolve disputes without going to court."

I favour that inclusion, but I agree with Bill Butler that the matter is at the heart of the forthcoming family law bill. As part of our consideration, we were asked by Grandparents Apart Self Help to consider the position of grandparents. I take the same position in relation to grandparents as I do to the system in general, which is that any person who enhances a child's life—whether they be a grandparent, father or anybody else—should have another forum in which they have the chance to make their case. The minister says in her letter that that is what the forthcoming bill should be able to address. I assure Margaret Mitchell that her points are already being considered.

Michael Matheson: I agree that the matter should be considered in the context of the forthcoming family law bill, largely because many of the issues are interrelated. There is always a danger that, if we consider one issue in isolation, it will impact on another aspect of family law. The point that Margaret Mitchell raises is covered by the proposals on the family law bill, so it would be best to consider that point and others collectively rather than individually.

The Convener: I think that we are agreed that all the issues that arise on access to children under the 1995 act and the result of the original petition on grandparents should be referred to the consideration of the forthcoming family law bill.

Mr Maxwell: We have been dealing with the petition, so we have some background knowledge. If the family law bill goes to the Justice 2 Committee for consideration, may I assume that we will pass our comments and background notes to that committee?

The Convener: That is a good point. If we do not deal with the forthcoming family law bill, it might be helpful to summarise all the points that were made during our deliberations and to pass on that summary to the Justice 2 Committee. That would be sensible.

Security of Tenure and Rights of Access

10:38

The Convener: For agenda item 6, I refer members to the notes that summarise the recent correspondence in relation to security of tenure and rights of access for those who own property built on leased land. The committee papers contain a lengthy and very useful legal opinion from Michael Clancy of the Law Society of Scotland, which covers the current legal situation, the scope for specific and general legislation, and the impact on existing contracts and on human rights law.

I shall summarise the Law Society of Scotland's main points. A lease for more than a year must be in writing. In general, anything that is built on land eventually belongs to the landowner, no matter who built it. There is no equivalent of squatters' rights in Scots law and there is no specific legislation that would deal with that issue in a general sense, there being no automatic rights of renewal of tenancies of that type, nor any rights to have the rent kept at the same level.

My feeling is that there is a great deal of sympathy with the petitioners, particularly the Carbeth Hutters Association and others, who are in that situation. However, we are still struggling to find a legal remedy that does not unduly upset the balance of general law. We have received additional correspondence from the Rascarrel hutters.

I invite members to consider whether there is any further action that they want to take, or to make general comments for clarification. I appreciate that this area of the law is complex, and reference has been made to the Abolition of Feudal Tenure etc (Scotland) Act 2000 and to the Land Tenure Reform (Scotland) Act 1974.

Margaret Mitchell: The issue seems fairly complex, and I feel that an adviser could tease out the problems properly for us.

Michael Matheson: As you say, the issue is complex. Perhaps there is no obvious legal remedy and legislation will not necessarily be the best option for addressing the issue, but I am not yet entirely sure about that. It would be helpful to have an adviser who could look at the matter in greater detail and give the committee some specialist advice on the options that may be available to us in addressing the problem. Most of the information that we have had so far from the Law Society, although it is extremely helpful, concerns the existing legal situation, and it has been suggested that a specific piece of legislation could be introduced to deal with the matter. It is a long-standing issue and one that I would be reluctant to leave, notwithstanding the complexity of the situation.

Mr Maxwell: I agree with both Margaret Mitchell and Michael Matheson that the issue is complex. The Law Society's letter was helpful, but it did not clarify things for me, other than to say that the situation is complex, which I already knew.

Perhaps we need to have expert options placed before us, rather than being in our current situation. I am not sure where we go from here. The legal situation is so complex that I am not sure that legislation is the answer, given the comments that have been made about the public good, about the European convention on human rights and about individuals' rights not to have their property taken from them. There is a series of conflicting rights and issues, and we are not yet at a point at which we can say, "Let us take this action."

I support the idea of our having an adviser to assist us in the matter, and I would certainly not want us to drop it, because there is an underlying problem of natural justice. People who find themselves in the situation that we are discussing are suffering an injustice. They might not have a legal recourse at the moment, but that does not mean that we should not pursue it and find some sort of solution.

10:45

The Convener: There is general agreement that we need to appoint an adviser to find out whether there are any options in law. We can all see the problem: although there is variation in the cases that we are considering, the issue is, generally speaking, that someone enters into a lease with a landowner for a certain rent value and, shortly after or some time after that, the value of the rent goes up substantially or the services that go with it change substantially to the detriment. Because it is a marketplace and the tenant has entered into a contract, they are free to walk away from that if they do not like it. The landowner has the ultimate say and, if the market dictates that someone else will walk into the lease, that is the general outcome.

I started out believing that the way forward might be that there should be some regulation of landowners who have huts or static caravans on their land to ensure that there was a bottom line of fair terms. That would ensure that, although the landowner would rightly be able to set the terms, there might be a threshold that would prevent them from tripling the rent at short notice, shutting a road or doing away with services because that would frustrate the lease. What is the point of

someone having a hut or static caravan if they cannot get access to it? However, whatever we do—whether we impose rent controls or fair terms—we have to apply that solution not only to the cases with which we are dealing but to all leaseholds, and although leasehold is not as well used in Scotland as it is in England, whatever law we choose will have to cover every case. I cannot think of any way of red-circling the group that we want to help; that is the problem, and there may not be a solution.

I agree with Michael Matheson that because we have come a long way on the matter, because we are agreed that there is an injustice and because we are trying to resolve the matter legally if we can, we should go all the way and find out whether we can be assisted by an adviser who has more understanding than we have of the legal routes that are available.

Mr Maxwell: I agree. You talked about rents being tripled, and it does not seem reasonable or in any way just that massive rent increases—or any of the other actions that have been taken—should be used, in effect, to remove people from their huts. The bottom line seems to be about evicting people; although they are not being evicted as such, they are being evicted by the landowner's action of raising the rent so exorbitantly that they give in and leave. It is in no way just to use rent increases as weapons, and I hope that we can come to a helpful conclusion to the matter. As I said, we must get some options.

The Convener: I alert members to paragraph 11 in paper J1/S2/04/25/5. We have received further correspondence from hutters and their representatives—namely, from Christine and Norman Milligan; and from Kathleen Downes and Amanda Bradbury, who is acting on behalf of Thomas McDougall. Christine and Norman Milligan request a meeting with the committee and the Minister for Justice. At this stage, because we cannot agree on the way forward and the minister does not support further progress, I am not sure what a meeting would achieve. However, that would not prevent the individuals from pursuing a meeting with the Executive if it wanted to hear from them. Is anyone otherwise minded?

Members: No.

The Convener: We are agreed that we will continue consideration of the subject and appoint an adviser on it.

We have agreed to take item 7, which concerns the appointment of an adviser, in private.

10:50

Meeting continued in private until 12:58.

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:

Monday 5 July 2004

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
0870 606 5566 Fax 0870 606 5588

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 CF12BZ
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 0845 270 0152

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by The Stationery Office Limited

ISBN 0 338 000003 ISSN 1467-0178