

JUSTICE 2 COMMITTEE

Tuesday 10 June 2003
(*Afternoon*)

Session 2

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JUSTICE 2 COMMITTEE

1st Meeting 2003, Session 2

OLDEST COMMITTEE MEMBER

*Mike Pringle (Edinburgh South) (LD)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Scott Barrie (Dunfermline West) (Lab)

*Colin Fox (Lothians) (SSP)

*Miss Annabel Goldie (West of Scotland) (Con)

*Nicola Sturgeon (Glasgow) (SNP)

*Karen Whitefield (Airdrie and Shotts) (Lab)

*attended

CLERK TO THE COMMITTEE

Gillian Baxendine

Lynn Tullis

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 2

Scottish Parliament

Justice 2 Committee

Tuesday 10 June 2003

(Afternoon)

[THE OLDEST COMMITTEE MEMBER *opened the meeting at 13:01*]

Mike Pringle (Oldest Committee Member): I welcome everybody to the first meeting in session 2 of the Justice 2 Committee. I have been asked by those who request such things to remind everybody to ensure that mobile phones and pagers are turned off. I will not need to turn off a mobile phone or pager, as I did not bring any with me.

Interests

Mike Pringle: Agenda item 1 is declaration of interests. Members should declare interests if they think that it is appropriate to do so. I have nothing to declare other than what I have already declared.

Miss Annabel Goldie (West of Scotland) (Con): I declare that I am a partner in the law firm of Donaldson, Alexander, Russell and Haddow.

Jackie Baillie (Dumbarton) (Lab): As they represent a considerable number of workers, it may be appropriate to disclose now that I am a member of the Transport and General Workers Union and Unison.

Karen Whitefield (Airdrie and Shotts) (Lab): I have nothing further to declare.

Scott Barrie (Dunfermline West) (Lab): I declare that I am a member of the trade union Unison, which represents a considerable number of civilian staff in the criminal justice system, and that my constituency Labour party is sponsored by Unison.

Colin Fox (Lothians) (SSP): I simply wanted to declare that I am interesting, but I should probably declare that I am a member of the National Union of Journalists.

Nicola Sturgeon (Glasgow) (SNP): I have nothing to declare.

Convener

Mike Pringle: The main agenda item is the choice of the committee's convener. The Parliament has agreed that members of the Conservative party are eligible to be nominated as convener of the committee.

Jackie Baillie: I nominate Annabel Goldie to be the convener of the committee.

Miss Annabel Goldie was chosen as convener.

Mike Pringle: I congratulate Annabel Goldie. She is a lawyer and it is entirely appropriate that she should convene the committee. I am sure that doing so will be hard but good fun. I ask her to take the chair.

The Convener (Miss Annabel Goldie): I thank Mike Pringle for undertaking the preliminaries for the meeting and for undertaking the role of interim convener. I thought that he handled it well, for an old man. We are very grateful. I also thank Jackie Baillie for her nomination and regard my being convener of the Justice 2 Committee as a privilege. I shall do my best to discharge my obligations in a non-provocative and unexceptionable manner.

Deputy Convener

The Convener: We come to the choice of deputy convener. Under the standing orders, members of the Labour party are eligible for nomination as deputy convener. I propose that Karen Whitefield be the deputy convener.

Karen Whitefield was chosen as deputy convener.

The Convener: Congratulations, Karen. I look forward to enjoying your support as deputy convener.

Legacy Papers

The Convener: In a sense, this first meeting is a technical meeting. Members all have an agenda and will see that it is a fairly sparse document. I have had a helpful preliminary meeting with the clerks, Gillian Baxendine and Lynn Tullis. We thought that it would be wise not to try to bite off too much today.

Item 4 concerns the legacy papers that were prepared by the previous Justice 1 Committee and Justice 2 Committee. Having glanced at the papers, I think that they are helpful and will serve as a useful aide-mémoire to us. The spirit of the papers is that they should not try to tell us what to do but should be a helpful point of reference as we reach decisions about what we are doing and about how to tackle the issues before us. Unless anyone has a specific point to raise about the legacy papers, I do not propose to discuss them further. Does anyone wish to say anything about them?

Jackie Baillie: My comment is not about the substance of the legacy papers. I am aware that there are new members of both the Justice 1 Committee and the Justice 2 Committee who perhaps do not have a legal background. Although some people might consider that to be a distinct advantage, it might prove initially to be a disadvantage. A helpful subject profile on justice issues was included in our papers, but I wonder whether there is any intention to bring together the new members of the Justice 1 Committee and Justice 2 Committee for a quick briefing on how the system works and on the distinctions that lawyers know about and which we are disadvantaged by not knowing about.

The Convener: That is a helpful suggestion. It is easy for those of us who are lawyers to take an unwise amount for granted, which can be perplexing for others. I do not know whether the clerks want to come in on that. That seems to be a sensible proposal and could be helpful.

Lynn Tullis (Clerk): That could be arranged.

The Convener: It should probably be arranged as early as possible so that members can avail themselves of further reading over the summer if they want to do so. I shall leave the clerks to liaise with the clerks from the Justice 1 Committee and to activate that invaluable suggestion, for which I thank Jackie Baillie.

Scott Barrie: I draw to members' attention the comments in the Justice 2 Committee's legacy paper on scrutiny of European law. I think that I am the only remaining member of the previous Justice 2 Committee, which worked on that issue. We recommended that a future committee should consider the scrutiny of European law and try to

deal with it in a more in-depth way than we were able to in the previous session. The way in which European directives and law affect the criminal justice system has not been examined as thoroughly as it should have been. It might not be the most important issue, but I wanted to bring it to members' attention and to suggest that we should return to it sooner rather than later.

The Convener: I am grateful to Scott Barrie for raising that point, which involves two issues as well as another that the clerks and I skirted over this morning. A broad and important issue is the way in which European legislation and directives now permeate not just the criminal legal system but the whole canvas of Scots law.

The clerks and I discussed this morning whether we have in the Parliament an adequate resource system to do the necessary research, filtering, sifting and bringing to the attention of the relevant committee if something comes from Europe that impinges directly on activity in Scotland.

Scott Barrie raises an important point that we cannot just leave to chance. I suspect that this is an issue that might have to be nailed. It might raise the question of resources. I do not know whether we have the necessary facilities at the moment or whether we are expecting too much of facilities that are already stretched. Therefore, with members' agreement, I will undertake to speak to Pauline McNeill, the convener of the Justice 1 Committee, before our next meeting and find out her views. I am perfectly happy to put the matter on the agenda for the next meeting for further consideration.

Scott Barrie's specific point about the possible direct effect of European legislation on our criminal legal system is a substantive issue. Do you believe that that point might merit investigation in isolation by one of the justice committees or does the broader situation concern you?

Scott Barrie: At this stage, I was just highlighting the broader issue for new members of the justice committees. Both committees highlighted the matter and I do not want it to get lost.

The Convener: Fine. That is helpful.

Probably the most important task that we have to tackle, although it would be premature to do so today, is to decide what we are going to do as a committee and where we could deploy ourselves usefully. I imagine that every member of the committee has areas of interest—I am perfectly relaxed about people expressing their views and interests. I do not necessarily want to do that this afternoon but, with members' agreement, I suggest that I ask the clerks to liaise with members over the next couple of weeks to find out whether they have particular issues that they think

the committee should consider. We could bring that information to the table at the next meeting and then we could start to make some formal decisions about what we think our work programme should be.

The Parliament has been on the go for four years, during which I have become aware of one or two areas where we have enacted legislation about which there are genuine concerns over how that legislation is working in practice. I am not talking about hugely contentious political issues; I am talking more about the nuts and bolts of more technical legislation. The legal profession and the medical profession have expressed anxiety to me about how some of the legislation that is already on the statute book is working in practice. It occurred to me that we might want to bear in mind our obligation to review legislation that has been passed and to be sure that we keep space in our schedule to do that.

If the Parliament ought to be vigilant about anything, it is that we are all human and if we pass legislation that is causing a problem in practice, it would be to the Parliament's credit if we recognised that at an early stage and tried to do something about it. That area has attracted my interest and I feel we should keep the necessary flexibility in our timetable to accommodate it.

Karen Whitefield: I add to your suggestion that it would be a good idea if people declared early on the subjects they are interested in and passed that information back to the clerk. There would then be an opportunity for us, as the convener and deputy convener, to meet the convener and deputy convener of the Justice 1 Committee so that we could draw up suggested remits for the two committees. We could then bring back a paper to the committee as the basis for a full discussion on where we think our priorities should be.

It is important that members take every opportunity to express their interests so that we can ensure that we cover them over the course of our four-year session. We must be careful that we do not concentrate too much on legislation and lose any of the post-enactment scrutiny, which sometimes gets lost because of the strain of other work that is placed on a committee. We need to timetable that work in at an early stage.

13:15

The Convener: That is a helpful suggestion. I am anxious to ensure that members of the committee have genuine freedom to express their areas of interest at a committee level. In the first instance, I will have a meeting with Pauline McNeill. After that, I want to keep the channels of communication not only open but transparently so. I do not want people to feel that they are being

presented with set positions arrived at by me, Karen Whitefield or our counterparts in the other committee, however sincere or well-intended our actions might be.

After I have met Pauline McNeill and the clerks have been informed of members' subject interests, I will come back to the committee and we can decide whether there should be a more formal dialogue with the Justice 1 Committee. That approach would avoid duplication—there is no point in us all trying to beat the same drum and we should be clear about the demarcation between our areas of work.

That exhausts everything that I wanted to say.

Mike Pringle (Edinburgh South) (LD): Am I right to think that we will meet every Tuesday?

The Convener: The advice of the clerks is that we are having this meeting on a Tuesday merely to ensure that we fit in with the template for all committees' first meetings, which will take place today and tomorrow to ensure that everyone gets their work underway.

There will have to be some careful thought about when the committee will meet. I am aware that some members sit on other committees, which will have to be taken into account. Again, it would be helpful if the clerks were to liaise with all committee members to find out whether there are definite problems with any proposed meeting time. That should ensure that we arrive at a time that is manageable for the majority of committee members. Would that be acceptable?

Members indicated agreement.

The Convener: It is unlikely that we will have another meeting before the recess. Whether we do so depends on the legislative programme, which, at the moment, comprises proposals that deal with three areas within the remit of the committee: vulnerable witnesses; antisocial behaviour orders; and the reform of the High Court. It looks as though whichever committee takes on the vulnerable witnesses legislation will also take on the antisocial behaviour orders legislation and that the other committee will deal with the reform of the High Court. Unless we are plunged into having to consider those proposals earlier than we think likely, we will not have to meet again until September. As to territory, we know roughly what the legislative programme is and how it will affect us. We will work with the Justice 1 Committee to come up with a way in which to deal with it.

We will, from time to time, have to consider subordinate legislation but, other than that, we will be able to be fairly flexible with our time.

Jackie Baillie: I understand that it has been the practice of other committees—perhaps including

the Justice 2 Committee—to meet ministers at least once during the summer recess to consider the forward programme. I might be wrong, but I seem to recollect that that is the case. I do not know whether there would be a benefit in doing that this summer or whether it is too early.

The Convener: The advice of the clerk is that, given that we know that the legislative programme will comprise the three elements that I have referred to, a meeting during the recess would probably not take us much further forward. It might be more useful to have such a meeting in the autumn or towards winter.

I hope that the ability of the justice committees to do—realistically—a good job of scrutinising draft legislation is recognised and that that will have an impact on the volume of legislation proposed by the Executive. If the justice committees are to do a good job, there has to be a sensible recognition of the work load that it is reasonable to impose. I am comforted in that regard by what I know of the legislative programme. I think that the work load arising from the programme will be manageable.

As nobody wants to raise anything else, I close the meeting.

Meeting closed at 13:20.

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