

JUSTICE 2 COMMITTEE

Tuesday 24 June 2003
(*Afternoon*)

Session 2

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JUSTICE 2 COMMITTEE

2nd Meeting 2003, Session 2

CONVENER

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

DEPUTY CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Scott Barrie (Dunfermline West) (Lab)

*Colin Fox (Lothians) (SSP)

*Mike Pringle (Edinburgh South) (LD)

*Nicola Sturgeon (Glasgow) (SNP)

*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 24 June 2003

(Afternoon)

[THE CONVENER *opened the meeting at 15:32*]

Vulnerable Witnesses (Scotland) Bill

The Convener (Miss Annabel Goldie): Ladies and gentlemen, welcome to the second meeting this session of the Justice 2 Committee. The first item on the agenda is the Vulnerable Witnesses (Scotland) Bill, on which we are required to consider our approach. I direct members to the helpful paper that the clerks have prepared, which I trust members have had a chance to look at. It outlines the background, summarises the key points, suggests an approach that we might care to adopt, comments on timing and finishes with a recommendation.

The informal briefing was helpful in indicating to us the areas where we will have to be diligent, indeed vigilant, if we are to ensure that we get the right witnesses before us and avail ourselves of the best information so that we can report sensibly on the bill.

The committee will need to seek written evidence from the organisations that are listed in the annex to the paper. The list appears to be fairly exhaustive, but are there any bodies that committee members would like to add to the list?

Scott Barrie (Dunfermline West) (Lab): Perhaps we should invite written evidence from the Association of Directors of Social Work, particularly from the child and family division and the adults division.

The Convener: Is everyone relaxed about that?

Members indicated agreement.

The Convener: I ask the clerk to add Mr Barrie's suggestion, for which I thank him. I welcome Mr Pringle to the meeting.

Mike Pringle (Edinburgh South) (LD): I have received a letter from HOPE—or Helping Offenders Prisoners Families—an organisation that is based in Glasgow. I do not know the organisation, but I am glad that I got to the meeting in time to suggest that the convener might like to consider it. Other members might also have received the letter from HOPE.

The Convener: Over the summer recess, there will be an open call for written evidence. I suggest that it would be appropriate for HOPE, if it is desirous to be involved, to respond to the invitation that we will make. Does Mr Pringle agree that it is appropriate for us to deal with the letter in that manner?

Mike Pringle: Yes.

The Convener: I suggest that we move on to consider the list in the annex to the paper. We have added Mr Barrie's suggestion. Do other members have suggestions to make?

Jackie Baillie (Dumbarton) (Lab): We should speak to the police. We can cover the implications for local authorities only by talking to the ADSW and the police. I do not have a body in mind but, given what we heard in the briefing, perhaps we should also invite a voluntary sector mental welfare group to give evidence.

The Convener: On Jackie Baillie's first point, I note that the Association of Chief Police Officers in Scotland is listed in the annex to the paper.

Jackie Baillie: My apologies—I did not get that far down.

The Convener: I think that the list is fairly comprehensive.

Jackie Baillie: Yes. It is fine.

The Convener: I am sure that the committee is not averse to Jackie Baillie's second suggestion on the voluntary sector. Perhaps as a first trawl, it might be appropriate to let the voluntary sector look at and respond to the call over the recess. If voluntary sector organisations feel strongly about the issue, the opportunity exists for them to make contact with the committee. Is that agreeable?

Members indicated agreement.

The Convener: I take it that the list, with Mr Barrie's suggestion added to it, is a suitable basis on which to proceed. If that is the case, I will instruct the clerks to write to the organisations on the list seeking written evidence. Is that agreed?

Members indicated agreement.

The Convener: For the benefit of the committee, I ask the clerk to explain what form the call for evidence over the summer recess will take. Will it be made on the website, for example?

Gillian Baxendine (Clerk): Yes. Our usual practice is to put a general call on the website along with details of how to respond. We also discuss with the Parliament's media office how best to get the information into the appropriate trade press and so on.

The Convener: Thank you.

Scott Barrie: Further to Jackie Baillie's suggestion of asking a voluntary sector mental welfare group to give evidence, we could contact the Scottish Association for Mental Health.

The Convener: That is a useful suggestion. I welcome the inclusion of that organisation in the list.

We should also agree in principle alternative means of seeking the views of vulnerable witnesses. I am open to suggestions on that important area. Should we agree in principle to do that and let the clerks report back to us on their suggestions?

Nicola Sturgeon (Glasgow) (SNP): We should agree in principle to do that. It would be sensible for us to work with organisations such as Victim Support Scotland. I remember that the Education, Culture and Sport Committee used Children 1st to consult children on a piece of legislation. It might be useful to take that approach again.

The Convener: I note that Children 1st is included in the list of organisations to which we will write seeking written evidence. We might well take advantage of its knowledge of vulnerable witnesses.

Karen Whitefield (Airdrie and Shotts) (Lab): On that point, another useful inroad to hearing the experience of victims is the victim information and advice service, which is operated by the Crown Office. It is listed in the annex to the paper.

The Convener: Okay. That is helpful. Given that we have embarked on what is an extensive process, do other members have suggestions about how we should seek the views of vulnerable witnesses?

Scott Barrie: When the clerks write to the ADSW, they could perhaps draw the issue to its attention. I can think of situations in which vulnerable witnesses have had a rough deal giving evidence in court. We could ask the ADSW to highlight that. People who have been through an unfortunate experience might wish to relate that in a semi-confidential way—although that might be impossible—so that we can hear their experiences of when the process did not work.

The Convener: There is no reason why the subject could not be broached with the ADSW. There might be confidentiality issues, but if the association feels free to disclose what it can, that would be helpful for our purposes.

In addition to considering the process for taking written evidence and a means of seeking the views of vulnerable witnesses, we have to consider whom we will call to give oral evidence. Those witnesses are in the first instance almost self-demonstrative. I suggest that the bill team officials should come back so that they are present

at a formal meeting and what they say goes into the *Official Report*, albeit that they might repeat much of what we heard in the informal briefing. We should probably hear from those witnesses in early course. Is that acceptable?

Members indicated agreement.

The Convener: I think that it is important to speak to the Crown Office officials. Subject to guidance from the clerks, I think that it would be appropriate to ask the Crown Office whom it would like to send to the committee, because we do not know who is expert in which area. The Lord Advocate may not choose to give evidence, but there are people in his organisation who could assist us.

The other body that I would welcome hearing from is Victim Support Scotland. That would be a useful early piece of evidence taking and it might guide some of our thinking about other evidence sources.

Those were the three groupings for oral evidence taking that suggested themselves to me, but I am happy to hear other suggestions from committee members.

Nicola Sturgeon: It might be helpful to hear from a children's organisation.

The Convener: The clerk has pointed out that, after we have clarified from whom we are taking oral evidence in our first meeting after the recess—that might be the trio that I suggested—we can make decisions about other oral evidence to take. Do members agree that we will play it by ear and consider what further oral evidence is appropriate after our first meeting after the recess?

Members indicated agreement.

The Convener: I think that that covers everything that we have to cover in relation to the bill. Unless there are other thoughts or suggestions, we shall move on.

Budget Process 2004-05

The Convener: Item 2 on the agenda is on the budget process 2004-05. The clerks have prepared and circulated a helpful paper, which indicates the principal matters on which we have to make decisions. There are four important issues. It behoves us to agree to meet jointly with the Justice 1 Committee to consider the budget. There is nothing innovative about that; it is the practice that has been followed and it seems well founded. I invite the committee to agree that we meet jointly with the Justice 1 Committee for the purposes of the budget process.

Members indicated agreement.

The Convener: The other significant issue is the appointment of an adviser. In the budget process we are very much orphans in the storm if we do not have an adviser, so it is of paramount importance that we procure one. The appointment will be a joint one, made once we have had our joint meeting with the Justice 1 Committee. There is a specification attached to the briefing note, showing what we think we require of the adviser. The specification seems pretty comprehensive, following a tried and tested pattern; if it is acceptable to members, I suggest that we agree formally to appoint an adviser and that that decision should be relayed to the Justice 1 Committee. We can then execute a decision when we have a joint meeting.

Members indicated agreement.

15:45

The Convener: We should probably also consider and agree an adviser's terms of reference, although I emphasise that it would be inappropriate for the names of potential advisers to be mentioned at this meeting. Perhaps the clerk could indicate who was previously procured as an adviser. If she does not want to mention that person's name, perhaps she could state the area of expertise that was considered useful for the budget scrutiny process.

Gillian Baxendine: It is a matter of public record that the adviser last year was Professor Brian Main from the University of Edinburgh. His background was primarily financial. Scott Barrie was involved last year and might like to comment, but I think that committee members found Professor Main's analysis and interpretation of the figures particularly helpful in guiding them through the process.

Scott Barrie: Gillian Baxendine is right. In the year before that, we went through the budget process without an adviser and it is a matter of public record that both committees found themselves a bit at sea with some complex

financial issues. Brian Main's involvement made the whole process much easier to understand.

I am glad that members are unanimously saying that we should, with the Justice 1 Committee, appoint another adviser, as I would not want us to go through what we went through two years ago. We did not give the budget the proper and adequate scrutiny that we were expected to give, as a number of us—if not all of us—were at sea in trying to understand some complex issues. I am not necessarily saying that we fully understood all the issues the second time round, but Brian Main's explanations made things much easier and we got to the real guts of issues as opposed to skirting around with some of the flotsam, as we had done previously.

The Convener: Such assistance would be helpful, particularly for members who have not been members of the justice committees. What has been said also indicates the area of experience that it would be useful for the adviser to possess.

Armed with that broad frame of reference, I suggest that we should leave the clerks to do some preliminary homework with a view to assisting us with the final production of names for consideration. Do members agree?

Members indicated agreement.

The Convener: The committee will certainly want to take oral evidence on the budget from the Minister for Justice and the Lord Advocate. Again, it will be the joint committee's responsibility to do so, but it is important in principle to get this committee to agree to the proposal. We will simply ask the Minister for Justice and the Lord Advocate to give oral evidence on the budget. However, it might be helpful, given the passage of time, to ask them to provide us with a paper setting out budget priorities for the past four years and for the next four years. At least that would give the committee a point of comparison so that we do not come in at a mid-point. We can look at what the various signposts seem to have been over that span of time. Would that approach be helpful?

Members indicated agreement.

The Convener: That approach could be helpful if only to alert the Minister for Justice and the Lord Advocate that they may be required to appear early before the joint committee, whenever it is convened.

I think that that is enough to let the clerks go forward, unless members have other views on the budget process. After the recess, I am sure that a more detailed résumé will be brought back to the committee to let us know exactly where we are going and when we will have a joint meeting with the Justice 1 Committee.

Work Programme

The Convener: Agenda item 3 is the committee's work programme. Since the previous meeting, members have been giving some thought to how the work programme might unfold, particularly in respect of items that perhaps we need to decide on. We should try to look ahead a little.

The first matter concerns an away day, which is now becoming the accepted modus operandi for committees. Apparently, a committee is not a proper committee unless it has been away somewhere—and who are we to fall foul of that requirement? In all seriousness, I think that an away day would be helpful. Many of us are new to the justice committees and some of us are new to the Parliament, so an away day might be a useful opportunity for committee members to get to know one another and, in a more informal environment, to have a general discussion about what the committee should do. With respect to budgets, it would be sensible to hold the away day jointly with the Justice 1 Committee, which is the proposal before us. Is that agreeable to members?

Members indicated agreement.

The Convener: We will try to find a time and a venue.

Karen Whitefield: It is important that the two committees should have a joint away day, as we are working in the same subject area. Members of both committees will have shared interests and we will need to reach an accommodation on which subjects we want to work on over the next four years.

The Convener: That is a reassuring affirmation that the Justice 2 Committee will not enter into turf wars, fighting its committee corner. The point is well made.

During the summer recess, the annual report from the chief inspector of prisons will be published. That will certainly provide the committee with an opportunity to take evidence on conditions in Scottish prisons, which is a current issue that is germane to the committee's remit. It would be helpful if we were prepared to try to fit that in. I suggest that the committee agree to hold an evidence session with the chief inspector jointly with the Justice 1 Committee, whose members—I go back to Karen Whitefield's point—will also have an interest in the issue. It is such a broad subject that it would be appropriate for both committees to be involved. Would it be appropriate for us to try to arrange a meeting with the Justice 1 Committee to take evidence after the summer recess?

Members indicated agreement.

Scott Barrie: I have no objection to a joint

meeting on that important subject. However, we should be careful not to go too far down the line of always having joint meetings, as that would defeat the purpose of having two separate justice committees. There will always be some overlap and you are right about what happened with the two committees in the previous session, but that does not mean that we will have to do the same this time. Last time, one of the committees was interested in some aspects of the prison service and offending and the other committee was interested in another aspect. The two committees do not have to do all the work together; they can split it. If we are going to go down that line, a joint meeting might be a useful way in which to start.

The Convener: I am sympathetic to that view. At an early stage in the work of the committee, we are trying to identify the areas where joint working is not only appropriate but necessary. Having established that, the committee will plough its furrow and consider whatever specific work issues or matters it wants.

Colin Fox (Lothians) (SSP): For clarification, are you talking about having an away day on that subject?

The Convener: No. The away day is separate and is an opportunity for the two committees to meet. Karen Whitefield made a pertinent comment. We need to ensure that we have a mutual understanding and it is important that the two committees work with respect for each other. I think that that will be facilitated by the away day. In due course, there will be an agenda for the away day, which will be roughly determined and not too prescriptive, containing issues that committee members think appropriate. The proposal on prisons is separate. Because of the breadth of the chief inspector's annual report, the suggestion is that we have a joint meeting with the Justice 1 Committee and take evidence together.

The other feature that has emerged is the high level of interest among members of the justice committees in scrutinising European justice issues, which is a significant challenge for us. Europe is an important dimension to everything that we are trying to do because it singularly affects many of the issues that used to be the exclusive province of Scots law. It is important that we have an understanding of the broader framework when we try to determine specific matters.

I wondered whether it might be helpful, as a starting point, to invite the Executive to provide an oral briefing on its involvement in developing, monitoring and implementing European proposals in legislation, so that we can understand the machinery for doing that. If we have such a briefing, we might be able to discuss a strategic approach to European matters at our away day.

The mechanism that the Executive uses will be in place; I do not know what it is, but it is important that we find out. I am sure that the Executive will be more than co-operative in assisting us by explaining the process. If members are agreeable, I think that that would be a helpful starting point.

Members indicated agreement.

The Convener: I think that it would be appropriate—dare I say this in the presence of Mr Barrie?—to hold the briefing jointly with the Justice 1 Committee to avoid dissipation of effort, because that committee is affected for the same reason. That would avoid replication of the Executive's time and effort.

Karen Whitefield: I suggest that we consider the matter at our away day, as we already have several subjects—not to mention legislation—that will fill up our agenda after the recess. We must ensure that the committee is clear about its focus over the next year. As both justice committees have an interest in the matter, we should consider it at the away day and come back as a committee to consider how we take the matter forward.

The Convener: I am relaxed about that. The important point is that it will be difficult for us to work as a committee without being clear about the European backdrop. To be honest, the sooner that we get some guidance on that issue the better. I do not think that the process will be lengthy; it is purely one of information. If members want to defer the matter for discussion at the away day, I am relaxed about that. Are there any other views on the matter?

Karen Whitefield: We could have the briefing at the away day.

The Convener: From whom would the presentation come?

Karen Whitefield: Scottish Executive ministers could come along.

The Convener: So we could use the away day for that purpose.

Karen Whitefield: Yes. That has happened in the past.

The Convener: I am content with that.

Nicola Sturgeon: That is fine. Your suggestion about finding out how the Executive handles European matters is sensible. If it makes sense to have the briefing at the away day, let us put it on the agenda.

The Convener: We are all in the business of trying to avoid duplication of effort. I will be happy if the briefing can be encompassed within the away day. Will we agree in principle to take that forward? The clerks can raise the matter with the Justice 1 Committee.

Members indicated agreement.

Colin Fox: Perhaps the clerks could clarify to what time scale the other committees are working. It is fashionable for committees to have an away day. When would we have the away day?

Gillian Baxendine: Most committees are considering the last couple of weeks of the recess or the first couple of weeks of term, as away days can be useful for drawing up the work programme and deciding on the future direction of the committee's work. Most committees are considering an early date for an away day.

16:00

The Convener: I thank you all for your thoughts on that matter. That is helpful.

I understand that there is a proposal to organise visits over the summer recess to a range of prisons, including Shotts, Cornton Vale, Polmont, Greenock and Kilmarnock. The clerks will be in touch with members who are interested in attending to arrange suitable dates. If members are particularly desirous of participating in those visits, they should let the clerks know; it would be helpful if they also intimated their holiday arrangements, so that the clerks are not chasing imaginary figures.

My only other thoughts on the work programme concern the specifics that are on the immediate horizon. The Vulnerable Witnesses (Scotland) Bill and the budget process will be on-going commitments for us and will ensure that we have a fairly demanding timetable.

As I indicated at our first meeting, it is important that we maintain a bit of flexibility somewhere in the system to allow us to consider issues that we might need to review. One such topic that came to my mind was the Adults with Incapacity (Scotland) Act 2000. Another possible subject is the proposal that a supreme court be constituted at the United Kingdom level. I understand that the court will have an appellate function for the Scottish legal system. The issue of judicial appointments is related to that. Of course, we have the Judicial Appointments Board for Scotland, but I would think that a parliamentary body, whether it is this committee or another grouping, will want to take an interest in how proposals for the supreme court are proceeding. If the court is to have an appellate function for Scottish cases, we need to know what the Scottish input into the appointment of judges to the court will be. The committee might be interested in considering that issue.

Nicola Sturgeon: We should consider the issue early on and not only in the sense that you indicate. I have not studied the matter closely, but I understand that there are implications with

regard to the Act of Union—a document that I take seriously. The independence of the Scottish justice system is enshrined in that piece of legislation and the establishment of a supreme court could have implications for that. It would be interesting to consider the issue.

Jackie Baillie: I am conscious that the clerks spent some time with various members of the committee asking about areas of interest that might feed into a broader work programme. Rather than throwing those suggestions in again, we might do better simply to recognise that there are some short-term drivers of our agenda, not least the forthcoming legislation and the budget process, and to use the away day to tease out some of the other issues that we and the Justice 1 Committee are interested in examining, such as the impact or otherwise—I suspect otherwise—of the supreme court on the Act of Union. That might be a more helpful approach.

The Convener: I am content with that approach. Do other members agree to do that?

Members *indicated agreement.*

The Convener: Thank you for your attendance.

Meeting closed at 16:03.

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