

JUSTICE 2 COMMITTEE

Tuesday 20 January 2004
(*Afternoon*)

Session 2

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JUSTICE 2 COMMITTEE **3rd Meeting 2004, Session 2**

CONVENER

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

DEPUTY CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Colin Fox (Lothians) (SSP)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Mike Pringle (Edinburgh South) (LD)

*Nicola Sturgeon (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Michael Matheson (Central Scotland) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Dr Sylvia Jackson (Stirling) (Lab)

CLERK TO THE COMMITTEE

Gillian Baxendine

Lynn Tullis

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Richard Hough

LOCATION

The Chamber

Scottish Parliament

Justice 2 Committee

Tuesday 20 January 2004

(Afternoon)

[THE CONVENER *opened the meeting at 14:06*]

Items in Private

The Convener (Miss Annabel Goldie): I welcome everyone to the third meeting of the Justice 2 Committee in 2004. I have received no apologies, although I gather that Nicola Sturgeon will be joining us before long.

For the first item on the agenda, the committee is asked to consider whether to take item 4 in private and whether we should take in private any future discussion of the draft stage 1 report on the Antisocial Behaviour etc (Scotland) Bill. Are members agreed?

Members indicated agreement.

Subordinate Legislation

Title Conditions (Scotland) Act 2003 (Conservation Bodies) Amendment Order 2003 (SSI 2003/621)

14:07

The Convener: The second item on the agenda is consideration of a negative instrument. Members should have a copy of the order, which is on a very technical matter. It simply makes a minor textual amendment to the original order.

Are members content with the order?

Members indicated agreement.

Petitions

Clydesdale Horses (Couping) (PE347)

14:07

The Convener: The third agenda item is consideration of four petitions, the first of which is petition PE347, from Mr Kenneth Mitchell, on the practice of shoeing Clydesdale horses. In that connection, members should find a letter from the Scottish Executive attached to their papers; they should also have received in the interim a letter from Mr Sharp dated 14 January and a letter from Sylvia Jackson dated 15 January. We have also recently received a letter addressed to all members of the Justice 2 Committee from an organisation called Animal Concern. I was made aware of this letter only this morning and thought that the clerks had a copy of it. However, that was not the case and I apologise for its late intimation to members.

While members glance at that communication, I welcome Sylvia Jackson to the meeting. We are grateful for her attendance. As well as being a constituency member, Sylvia is convener of the cross-party group on animal welfare and has been closely associated with a number of animal welfare issues in the Parliament.

First, I ask members if they have any particular questions in connection with the documentation that they have before them. I will then invite Sylvia Jackson to speak to us briefly in pursuance of her letter. Do members have any questions about the documents that they have before them?

Mike Pringle (Edinburgh South) (LD): I do not have the letter from Sylvia Jackson to us.

The Convener: I apologise. That has come to me as convener. Do any members have a copy of Sylvia Jackson's letter?

Jackie Baillie (Dumbarton) (Lab): I think that I have a copy here.

Mike Pringle: I have a letter to Sylvia Jackson, but not one from Sylvia Jackson.

The Convener: I have a letter from Sylvia Jackson to me as convener. I have only with recent effect received the letter so I will arrange for it to be copied and given to members. I will, for the purposes of the meeting, summarise what she says.

The letter refers to our consideration of the petition. Dr Jackson is aware that we have received the response from the Executive that states that there is no need for further action and she is opposed to that statement. She strongly believes that existing legislation is failing to address the problem. She also states:

"evidence has been accumulated as this petition has been examined by the various Committees of the Parliament".

I mention in passing that I am not sure that the committee has been made aware of that evidence; as far as I am aware we have simply had a referral from the Public Petitions Committee.

Sylvia Jackson takes the view that coup shoeing continues in Scotland. She states that she

"would like to draw to the attention of the Committee the numerous veterinary experts that have contacted the late petitioner and Mr Sharp"—

who has written to us—

"stating their concerns about this method of shoeing and the potential for long-term damage."

She thinks that the

"medical opinion of qualified vets should be given the highest consideration by the Committee."

She goes on to say that

"the SSPCA have also stated to me that due to the definition of suffering they are unable to take action on this matter under the present legislation."

She quotes from a letter of 20 May 2002 from Libby Anderson of the Scottish Society for the Prevention of Cruelty to Animals to the Public Petitions Committee:

"Libby Anderson of the SSPCA states that 'It appears reasonable to conclude that the more extreme styles are more likely to cause discomfort or even suffering' however, she goes on to state that it is 'extremely difficult [for Inspectors] to prove that any particular horse has been caused unnecessary suffering on a given day. The criticisms levelled at coupling ... were rather that it caused damage in the long term and unfortunately SSPCA Inspectors are not in a position to obtain evidence of this.'"

Sylvia Jackson particularly wants to draw our attention to that statement. That is why she disagrees with the minister's assessment of the current situation. She requests that the committee indicate its support for the aims of the petition. She has also indicated that she would be prepared to lodge a member's bill on the matter, but that she thinks

"that the proposed animal welfare legislation provides the perfect vehicle to tackle this issue."

She therefore asks the committee to

"press the Executive to include a specific section on this matter in the forthcoming consultation on the future Animal Health and Welfare Bill."

I have given that summary of the letter from Sylvia Jackson in order to assist members, but I will ensure that committee members get a copy of the letter for their files.

I ask Sylvia Jackson if she would like to speak briefly to the committee.

Dr Sylvia Jackson (Stirling) (Lab): Thank you, convener. You have mentioned most of the main points.

I will go through the background quickly. Unfortunately, Kenneth Mitchell, the original petitioner, died, so Jim Sharp has taken over the petition—I wanted members to be clear about why Jim Sharp is now writing to me and to the committee.

The petition went to the previous Justice 1 Committee, where it was considered. I had assumed that all the papers from the various veterinary experts and so on would have been passed on to the committee when the petition came to it after the second session of the Parliament started.

I will give members some idea about what some of the experts have said on the matter. In his letter, Andrew McDiarmid, the former head equine surgeon at the Royal (Dick) school of veterinary studies at the University of Edinburgh, wrote:

"I have been aware of the fact that Clydesdale horses are shod in this manner for many years. This is one of many practices that the 'Clydesdale men' undertake that, in my opinion, are both extremely ill informed, antiquated and at best of no benefit to the horse."

Roy Anderson of Broadleys veterinary hospital wrote:

"I know that in the days of the real working horse as opposed to the show horse, this kind of shoeing would not be tolerated as the main purpose of the animal was to work, irrespective of its looks."

That is one of the big differences to take into account.

When I spoke to members of the Clydesdale Horse Society, I found that they believe that the horse is born with the gait that it has, which is why the particular type of shoeing that is used is viewed as appropriate. That, however, is where the veterinary experts would say that the shoeing is inappropriate. There are completely differing views about it.

Alan Bailey, a farrier and lecturer, wrote:

"The practice of shoeing Clydesdales in the 'traditional' manner defies words of condemnation. This barbaric practice should be outlawed immediately as cruelty to animals and is a slap in the face of the Farriers Registration Act — A horse welfare act."

So it goes on. There is certainly enough condemnation from leading experts about the practice.

14:15

Things have moved on a little. This committee is now examining the issue, and an animal health and welfare bill is to be introduced. It is accepted that the matter will be considered in a wider

context than was previously envisaged. I would suggest that the first course of action might be for the committee to suggest that the matter be considered in the course of that bill's consideration, and that evidence could be collected.

I did not find the reply from the Minister for Environment and Rural Development, in which he suggested that the present legislation was sufficient, particularly helpful. The SSPCA would say that it has an inability to act on the issue, simply because it is to do with a long-term effect on a horse, rather than immediate suffering. A small number of horses from one show, for example, might get picked up and could be suffering a long-term effect.

The letter from Jim Sharp highlights how things are progressing in Canada, where he has been recently. He noted:

"in Canada it is not referred to as coup shoeing but as 'Scots shoeing' as the practice has been exported from here".

It seems that people are very much moving against the practice over in Canada.

In summary, I suggest that we move forward in the context of the proposed animal health and welfare bill in the first instance. I hope that the Scottish Executive will take the matter up and that it will be possible to take evidence on it for the bill.

The Convener: I thank Sylvia Jackson very much for her submission.

The nub of the matter is that there is an issue to be resolved here. We are probably all agreed about that. One of the difficulties for the committee is that the evidence that we are receiving is anecdotal. In no way do I impugn or dispute that evidence, but it has not been gathered directly by this committee for it to make its own assessment. From what Sylvia Jackson has said, and from what is demonstrated by the documentation that has been circulated, there is a technical issue about what the procedure amounts to in terms of animal husbandry and the good treatment of animals.

Mike Pringle: Could Sylvia Jackson tell us what the practice is in England, Wales and Ireland? Is it common throughout Great Britain, or does it occur only in Scotland? What is the practice in England, for example?

Dr Jackson: I had hoped to double check that to ascertain a final answer. However, I do not think that the practice occurs in England and Wales. It is a Scottish tradition.

The Convener: That is interesting.

Jackie Baillie: As a member of the Public Petitions Committee, I have perhaps had the

benefit of seeing a much fuller set of papers on the petition. I suggest that when petitions come to this committee in future, the paperwork should also be transferred—I do not know whether that can be sorted out easily.

As I have had the benefit of seeing those papers, I am minded to support the petition. I am not necessarily convinced by the minister's contention that existing legislation offers sufficient protection, or by his opinion that everything must be okay simply because no cases have been reported. I strongly question that.

We could write to the minister again and press him to include a reference to the matter in his consultation. However, regretfully, I think that in his letter he makes it quite clear that currently there is

"no need for any additional specific legislation to deal with coup shoeing."

On that basis, I conclude that we should support the petition. If the Executive will not take action, I take comfort from the fact that Sylvia Jackson is likely to introduce a member's bill on the matter.

The Convener: That is a helpful contribution.

Maureen Macmillan (Highlands and Islands (Lab): I was a member of the previous Justice 1 Committee, which considered the petition in the previous session of Parliament. We obtained more evidence than has been mentioned in the papers: we corresponded with the minister, the Clydesdale Horse Society and—I think—the chief veterinary officer. The committee thought that the matter should be investigated and that the petition should be supported, which is why it was referred back to the Public Petitions Committee with the recommendation that it should be resubmitted to one of the justice committees in the new session of Parliament—as has happened.

The committee should write to the minister again if it thinks that he should examine the matter further. However, I agree with the convener that we perhaps do not have hard evidence about the practice. If Mr Sharp has such evidence, he should submit it when evidence is called in relation to the proposed animal health and welfare bill.

The Convener: Sylvia Jackson wants to add something.

Dr Jackson: I will make a short point. As Maureen Macmillan said, the previous Justice 1 Committee spoke to the Executive about the matter. At that time, the Executive was sympathetic to the idea of considering the issue. I find it a wee bit strange that a more contrary view is now being expressed than previously, when there was more support from the Executive on the issue. Paragraph 6 of the committee paper on the petition says:

"The Executive also stated that there is awareness of the welfare issues arising from breeding and showing animals and agreed that it is appropriate to consider the practice of coupling in the context of animal welfare legislation."

The Convener: As no other members want to comment, it seems that we all agree that the matter has been on-going for a considerable time. I probably express the sentiments of all members when I say that we certainly do not want the petitioner, or those who, like Sylvia Jackson, are interested in the matter, to feel frustrated that the petition is becoming bogged down in one bureaucratic process after another.

I gleaned from the contributions of Mike Pringle, Jackie Baillie and Maureen Macmillan that we accept that there is an issue, so the committee must decide how best to deal with the petition. Does the committee agree that, first, we should write to the minister to seek further clarification of the Executive's intention in relation to the forthcoming bill and of whether the pre-legislative consultation will embrace matters such as this and therefore give people such as Mr Sharp an opportunity to contribute?

I also suggest that, on behalf of the committee, I procure from elsewhere those papers and documentary adminicles that have been produced but which we do not have. On that basis, I suggest that we keep open our consideration of the petition and make a decision once we have received responses from the Executive and have been able to consider that evidence further.

Dr Jackson: Could I add one point, convener?

The Convener: Certainly, although I am not sure that it is competent for you to add it while I am trying to get the committee to express a view.

Dr Jackson: I just wanted to indicate a further point that could be included in a letter to the Executive. The previous Justice 1 Committee thought that the broader question of the welfare issues that arise from the breeding and showing of animals should be included in the trawl for evidence for the proposed animal health and welfare bill. If that broader context were examined, the subject of the petition could be considered within that.

The Convener: If I understand the final paragraph of the Executive's letter correctly, it seems to me implicit that a bill that is to be called the animal health and welfare bill must be fairly wide in application. Indeed, the minister has confirmed that

"the scope of this legislation could be extended to cover much wider animal welfare issues."

The committee is responsible for petition PE347—that is the matter before us—and it is proper for the committee to make a determination on the basis of the petition and matters germane to it.

I invite the committee to confirm whether it agrees that, in the first instance, we write to the Scottish Executive for further clarification of the consultation process and what is intended, and that we also procure whatever other evidence has been made available to the Public Petitions Committee or the previous Justice 1 Committee. I suggest that we keep open our consideration of the petition on that basis and revisit it when that further information is to hand. Is that agreed?

Members indicated agreement.

The Convener: I thank Sylvia Jackson for joining us this afternoon.

Scottish Law (Protection of Minors) (PE565)

The Convener: The next petition, PE565, which is from Jacqueline Shields, calls on the Scottish Parliament to take the necessary steps to provide a protective mechanism to ensure that the welfare concerns of minors are paramount in Scottish law. Members have the responses that we have received from the Scottish Executive Justice Department, the Law Society of Scotland and the Scottish Legal Aid Board. Do members wish to make any comments on those responses?

Members will see that the accompanying paper suggests that the committee consider

"whether it is satisfied with: the procedures to support children who are involved in civil law and other court proceedings; the guidance available to sheriffs in considering such cases; and the availability and accessibility of information directed at children."

Do members have a view on that?

Karen Whitefield (Airdrie and Shotts) (Lab): I think that we have received helpful information from all those to whom we wrote, which outlines the help and advice that are available. It might be helpful to pass that information on to the petitioner, as the clerks recommend.

The Convener: If the committee is content with the adequacy of the information that is available, the sensible course would be just that—to forward copies of the correspondence to the petitioner. Does the committee agree to that suggestion?

Members indicated agreement.

Public Bodies (Complainers' Rights) (PE578)

The Convener: The next petition, PE578, is from Donald MacKinnon. It calls on the Scottish Parliament to take the necessary steps to extend the right of absolute privilege that is available to those who complain about the conduct of a range of public bodies to young and vulnerable people who report abuse to an appropriate authority.

Members have the information that has been obtained in the interim, which includes a letter from the Deputy Minister for Justice, as well as Mr MacKinnon's letter to the committee of 18 October and the accompanying annexations.

Jackie Baillie: Given what the deputy minister said in his letter, I suggest that we defer consideration of the petition until after the appeal has been heard in the Court of Session. That is a proposal that Mr MacKinnon finds acceptable.

The Convener: Yes. I am grateful to Jackie Baillie for raising that issue. The minister referred to the on-going appeal in the Court of Session and, for that reason, the Executive rightly felt that it would be inappropriate to comment further. Without having such further comment, it is difficult for the committee to come to any conclusion, so I suggest that we agree to defer consideration of the petition until after the appeal has been heard.

Members indicated agreement.

Violent Crime (Sentencing Policy) (PE659)

The Convener: The final petition, PE659, which is from Mr Graham Sturton, calls on the Scottish Parliament to carry out a review of the sentencing policy on violent crime in Scotland. In the previous parliamentary session, the Justice 1 Committee carried out considerable work on sentencing, and the Executive has announced the establishment of the Sentencing Commission. The question is whether the committee is content with the current position and thinks that it would be sufficient to note the petitioner's concerns on sentencing and, in forwarding his petition to the Sentencing Commission, to highlight the strength of feeling demonstrated by the signing of the petition by 1,800 people. Is that an acceptable course of action?

Members indicated agreement.

The Convener: We now come to item 4, which we have agreed should be dealt with in private.

14:31

Meeting continued in private until 17:08.

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