

JUSTICE 2 COMMITTEE

Tuesday 29 June 2004
(*Afternoon*)

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2004.

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

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

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

CONTENTS

Tuesday 29 June 2004

Col.

ITEMS IN PRIVATE	905
SUBORDINATE LEGISLATION	906
Police (Scotland) Regulations 2004 (SSI 2004/257)	906
Advice and Assistance (Scotland) Amendment (No 2) Regulations 2004 (SSI 2004/262)	906
Criminal Legal Aid (Fixed Payments) (Scotland) Amendment (No 3) Regulations 2004 (SSI 2004/263) ..	906
Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 2004 (SSI 2004/264)	906
Civil Legal Aid (Scotland) (Fees) Amendment Regulations 2004 (SSI 2004/281)	906
Criminal Legal Aid (Scotland) Amendment Regulations 2004 (SSI 2004/282)	906
Advice and Assistance (Scotland) Amendment (No 2) Regulations 2004 Amendment Regulations 2004 (SSI 2004/305)	906
CONVENER'S CORRESPONDENCE	908

JUSTICE 2 COMMITTEE

23rd 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

CLERK TO THE COMMITTEE

Gillian Baxendine

Lynn Tullis

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 3

Scottish Parliament

Justice 2 Committee

Tuesday 29 June 2004

(Afternoon)

[THE CONVENER *opened the meeting at 14:02*]

Items in Private

The Convener (Miss Annabel Goldie): I welcome members to the 23rd meeting in 2004 of the Justice 2 Committee. I hope that members have been circulated with the papers for the meeting, including the amended agenda. I have received apologies from Maureen Macmillan. I welcome her committee substitute, Cathie Craigie, and thank her for coming to this afternoon's meeting. I have also received apologies from Mike Pringle. I understand that his substitute, Margaret Smith, hopes to attend; we shall await developments. Finally, I have received apologies from Nicola Sturgeon. I am pleased to say that, thanks to the collective efforts of the members who are present, we are quorate.

Under item 1, I seek the committee's agreement to take items 4 and 5 in private. Are we agreed?

Members *indicated agreement.*

Subordinate Legislation

**Police (Scotland) Regulations 2004
(SSI 2004/257)**

**Advice and Assistance (Scotland)
Amendment (No 2) Regulations 2004
(SSI 2004/262)**

**Criminal Legal Aid (Fixed Payments)
(Scotland) Amendment (No 3) Regulations
2004 (SSI 2004/263)**

**Criminal Legal Aid (Scotland) (Fees)
Amendment Regulations 2004
(SSI 2004/264)**

**Civil Legal Aid (Scotland) (Fees)
Amendment Regulations 2004
(SSI 2004/281)**

**Criminal Legal Aid (Scotland) Amendment
Regulations 2004 (SSI 2004/282)**

**Advice and Assistance (Scotland)
Amendment (No 2) Regulations 2004
Amendment Regulations 2004
(SSI 2004/305)**

14:03

The Convener: Item 2 concerns subordinate legislation. I am afraid that we have been deluged with quite a raft of instruments. The situation is made a little more complicated by the fact that the instruments include an additional set of amendment regulations. Members received an amended agenda earlier today to allow us to consider the Advice and Assistance (Scotland) Amendment (No 2) Regulations 2004 Amendment Regulations 2004 (SSI 2004/305), which were laid on 25 June. The regulations amend the Advice and Assistance (Scotland) Amendment (No 2) Regulations 2004 (SSI 2004/262). We received a letter about SSI 2004/305 from the Justice Department, and a copy of that letter was circulated to members by e-mail on 25 June. I apologise for the slight confusion.

We have a total of seven sets of regulations, all of which are to be considered under the negative procedure. Although no motion to annul has been lodged, I should probably bring to the attention of the committee some issues that have been raised.

On the Police (Scotland) Regulations 2004 (SSI 2004/257), the Subordinate Legislation Committee considered the regulations and raised a number of points, some of which it has reported to the

Parliament and this committee. Members were circulated with a copy of the committee's report on Friday. I am given to understand that the majority of the 12 points that the Subordinate Legislation Committee raised are either technical in nature or drafting errors that have been acknowledged by the Executive. Members of this committee might want to consider the Executive's response to points 2, 7, 8 and 12.

The final little titbit of delectation that I am to bring to members' attention concerns the title of SSI 2002/282, which should be the Criminal Legal Aid (Scotland) Amendment Regulations 2004 and not the Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 2004, as is shown on the agenda.

I hope that I have correctly understood the encyclopaedic instructions that I received from the clerks. Happily, they are indicating that everything has been explained correctly. Although I do not undertake to answer questions on the instruments, I am happy to take comments. I should declare an interest as a member of the Law Society of Scotland. A number of the regulations apply to the remuneration of solicitors. Although that does not directly affect me, I should declare my interest nonetheless.

We normally advise the Law Society about instruments that come before us in case it has any comment to make. Just before the meeting commenced, the clerks told me that we have received a letter from the Law Society advising us that it has absolutely no comment to make on the regulations that are before us today.

Do I take it that the committee has no comment to make on the instruments?

Members *indicated agreement.*

Convener's Correspondence

14:07

The Convener: The next item is our consideration of a letter from Mrs Gina Riva, which was addressed to me as convener of the committee. I have discretion in these matters as to whether such correspondence should be brought before the committee. On this occasion, I felt reluctant about taking a unilateral decision not to do so. I thought that it was preferable at least to place the item on the agenda so that committee members could express their views. I invite members to discuss the letter.

Karen Whitefield (Airdrie and Shotts) (Lab): I read Mrs Riva's letter and the enclosed report in which she raises a number of points. I am not clear, however, whether she has raised them with her constituency member of the Scottish Parliament or any of the list MSPs for her region. The most appropriate way for her to raise them is not with this committee but with her constituency member or her list members. She should give those MSPs the opportunity to pursue the points that she raises. As a constituency MSP who has a prison in her constituency, I get many letters—almost on a weekly basis—from prisoners who raise issues, some of which are important and others that are less so. It is for constituency or list MSPs to pursue those issues.

We have to be careful not to establish a precedent whereby members of the public raise with this or another subject committee issues that should be raised initially at the constituency level.

It may well be that Mrs Riva has points to raise with the Parliament, but the first point of contact should be the Public Petitions Committee, which in turn would want to contact the relevant subject committee. I suggest that we write back to her and thank her for her correspondence, note that she has raised the issue most appropriately with the Minister for Justice and recommend that she make early contact with her constituency member and with the list members in her region. We might also want to consider copying her letter to the constituency member and notifying them of any decision that the committee takes.

Colin Fox (Lothians) (SSP): I am happy with Karen Whitefield's suggestion about Mrs Riva's letter. However, when I read the letter I was mindful of the recent report of HM prisons inspectorate for Scotland about Cornton Vale. Perhaps members of the Justice 1 Committee or the Justice 2 Committee have visited Cornton Vale. I might have missed that visit, or we might have a visit scheduled. Could you clarify that,

convener? If we have not visited Cornton Vale, do we have a space for a visit in our schedule?

The Convener: I will just clarify that with the clerks. As you know, we have had a schedule of prison visits. I know that some of us were able to make some visits but not others. Cornton Vale was among the prisons in the schedule. We do not have a current schedule of prison visits, presumably because we have no active business relative to prisons. The committee has no intention at this point to visit more prisons. The schedule of visits that we undertook was our last activity in that respect.

Colin Fox: Okay.

The Convener: Are you content with Karen Whitefield's suggestion?

Colin Fox: Yes, as that is probably the best way to deal with the correspondence. I was just aware of the programme of prison visits in which we were engaged.

The Convener: That has been a helpful discussion. I acknowledge the point that Karen Whitefield was quite correct to make, as the committee is not the agency of first intervention or first action. It is the obligation of constituency and list members to take matters forward on behalf of constituents who instruct them. It is important that the two separate roles of the MSP and the committee are identified and acknowledged, because they are not the same.

The proposal, as outlined by Karen Whitefield, is that we should write to Mrs Riva suggesting that she raise the matter with either her constituency member or one of her list members, to whom she should certainly copy her report. We should strongly advise her to ask her MSP to liaise with her and the Minister for Justice, because if the minister is simply sent a copy of the report, she may not be clear as to whether action is sought or advice is required. As Karen Whitefield said, Mrs Riva can also approach the Public Petitions Committee, which would certainly be a relevant step to take. Does the committee agree that I should proceed on the basis that Karen Whitefield outlined and ask the clerks to draft a letter to Mrs Riva?

Members indicated agreement.

The Convener: Thank you. We proceed to items 4 and 5, which are to be taken in private.

14:14

Meeting continued in private until 14:40.

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:

Friday 9 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 CF1 2BZ
Tel 029 2039 5548 Fax 029 2038 4347

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

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

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

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers