

JUSTICE 2 COMMITTEE

Tuesday 26 October 2004

Session 2

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JUSTICE 2 COMMITTEE

28th Meeting 2004, Session 2

CONVENER

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

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)

*Colin Fox (Lothians) (SSP)

*Maureen Macmillan (Highlands and Islands) (Lab)

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

Mike Pringle (Edinburgh South) (LD)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Kenny MacAskill (Lothians) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED

Fergus McNeill (Adviser)

CLERK TO THE COMMITTEE

Gillian Baxendine

Tracey Haw e

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 5

Scottish Parliament

Justice 2 Committee

Tuesday 26 October 2004

[THE CONVENER *opened the meeting at 14:04*]

Interests

The Convener (Miss Annabel Goldie): I declare the meeting open and welcome everybody to the 28th meeting in 2004 of the Justice 2 Committee. I remind members that they do not need to press buttons on their consoles; our sound operator will switch on our microphones. I also remind members to keep mobile phones switched off.

We have apologies from Mike Pringle. As far as I know, Stewart Maxwell will join us. I should also formally welcome Bill Butler to the committee. Members will be aware that Karen Whitefield has now gone to become convener of the Communities Committee. I am sure that all members of the Justice 2 Committee join me in thanking Karen for her work as deputy convener of this committee. She was a diligent and conscientious member and a good support to me. In her stead, I have great pleasure in welcoming Bill Butler into our midst; I hope that he does not find the breast too savage.

It is customary for new members to declare any relevant interests. Is there anything that Bill Butler would like to mention?

Bill Butler (Glasgow Anniesland) (Lab): I would just like to thank you for that warm welcome, convener, and to say that I have no relevant interests to declare.

The Convener: Thank you very much indeed.

Deputy Convener

14:05

The Convener: It is also necessary for the committee to choose a new deputy convener. I am happy to invite suggestions for that position.

Jackie Baillie (Dumbarton) (Lab): I nominate Bill Butler.

Maureen Macmillan (Highlands and Islands) (Lab): I second that.

The Convener: As there are no other nominations, can I take it that that appointment is unanimous?

Bill Butler was chosen as deputy convener.

The Convener: I welcome Bill Butler not only to the committee but to the position of deputy convener. It is good to have you on board in that capacity, Bill.

Items in Private

14:06

The Convener: We move on to item 3, which is to consider whether to take item 6 on today's agenda in private and whether we should also take in private any future consideration of the Fire (Scotland) Bill stage 1 report. Is that agreed?

Members indicated agreement.

Subordinate Legislation

Title Conditions (Scotland) Act 2003 (Conservation Bodies) Amendment Order 2004 (SSI 2004/400)

14:07

The Convener: Item 4 concerns two items of subordinate legislation, both of which are negative instruments. The first is the Title Conditions (Scotland) Act 2003 (Conservation Bodies) Amendment Order 2004. Members have a copy of that order and an explanatory note from the clerks. If no member wishes to raise questions or to comment on the order, do members find the order acceptable?

Members indicated agreement.

Victim Notification (Prescribed Offences) (Scotland) Order 2004 (SSI 2004/411)

The Convener: The second instrument is the Victim Notification (Prescribed Offences) (Scotland) Order 2004. Once again, this is a negative instrument. There is explanatory information with the copy of the order, which all members should have. If there are no questions, can I take it that the committee is content with the order?

Members indicated agreement.

Youth Justice Inquiry

14:08

The Convener: Item 5 on the agenda is our youth justice inquiry. I welcome Fergus McNeill and thank him for his supreme help in distilling the extensive written evidence into a useful summary and for his further comments on that, which have been invaluable to the committee.

At this stage, I think that the committee will want to consider the submissions that have been received along with our adviser's comments on the evidence before we move on to consider how to proceed with the inquiry. I hope that members also have a copy of the helpful Scottish Parliament information centre briefing, which was prepared by Graham Ross.

It would be helpful if members raise now any points on the submissions or on Mr McNeill's comments on the evidence. Do members wish to raise points on which they seek clarification or comment from our adviser?

Members indicated disagreement.

The Convener: Certain universal themes emerge from the submissions, which is helpful in terms of the visits that we intend to make. The evidence points us towards some particular areas that we might want to look at during our visits. That said, I leave it to committee members to make their own judgments on which issues to raise, as that will depend on where they go.

We also have to take the important decision on whether to take further oral evidence and, if so, which witnesses we should call. Fergus McNeill has kindly produced a list of possible witnesses, which members will find at the end of his paper. I am not clear about our timetable. Perhaps the clerk will clarify which slots are available and what is the timescale for the inquiry.

Gillian Baxendine (Clerk): Obviously, it is within the committee's gift to decide how much time it wishes to give to the inquiry. The only other major item on the agenda at the moment is stage 2 of the Fire (Scotland) Bill. The committee might feel that it would be helpful to conclude stage 2 before Christmas. That leaves us with about four meetings before Christmas that could be devoted to the inquiry. In December, we could decide whether to schedule more time in the new year.

The Convener: That is helpful. The timetable is more flexible than I thought.

Jackie Baillie: I am interested in the extent to which, particularly on mental health and learning disability issues, the lack of engagement by health agencies and services is a common feature. I am

interested in teasing out what Fergus McNeill's feelings are about some of the underlying issues in that respect.

Given that I am never content to ask only one question, I have a second question, on finance. At the end of the section headed "Issues for Services in Rural Areas", I note a small paragraph in Fergus McNeill's summary that refers to Glasgow City Council's submission. The council's point, with which I am quite familiar, is that urban areas can also suffer disproportionate needs. I represent an area that suffers disproportionately because of the level of disadvantage. Should we explore whether funding should be skewed further than it is at the moment?

Fergus McNeill (Adviser): I do not want to make a judgment about what Glasgow City Council intended to say. I suspect that it might have thought that rural authorities would respond in a way that highlighted—as indeed was the case—the range of problems that they have in respect of additional costs for travel, access and so on. Urban councils such as Glasgow City Council would have felt duty bound to point out the additional costs that result from the particular pressures that exist in urban areas. I imagine that that was the motivation for the council's comment.

From the submissions and from general discussions in the youth justice field, I am aware that there is a degree of dissatisfaction in some quarters among rural authorities, and some urban authorities too, about funding mechanisms and formulae. The committee might want to explore the issue further with ministers or officials.

Jackie Baillie: Thank you.

Fergus McNeill: I did not answer your first question about mental health. Two issues are involved, the first of which is the general issue of multi-agency working. The submissions showed that, in multi-agency planning processes, agencies for which youth justice is not a core or top-priority business were seen as difficult to engage.

Health and, to some extent, education featured most prominently in the responses from different agencies. That issue is slightly different from concern about mental health service provision for young people who are involved in crime and offending. It is important to keep the two separate. There is a general issue about the engagement of health services in youth justice planning and delivery and there is a specific issue about the problems that youth justice teams face in accessing mental health services for young people.

14:15

There is an overlap with addiction issues and there is dual diagnosis—there might be both

mental health and substance misuse problems. I was struck by the unanimity of the responses about the inadequacy of access to those services, which is a key issue to pursue further. I have not spoken to John Marshall, but I thought of inviting him to give oral evidence because the team that he leads in Glasgow is groundbreaking and unique in Scotland. He has significant experience in the field and would probably be able to contribute something on the kind of services that might need to be developed and he might feel able to comment on why health services are not always as engaged in the process as others wish them to be.

The Convener: On behalf of the committee I welcome Stewart Maxwell as a new member, replacing Nicola Sturgeon. You can see what Nicola's position on the committee did for her, Stewart.

Mr Stewart Maxwell (West of Scotland) (SNP): There is hope yet.

The Convener: No aspirations are too high. We are pleased to have you here today. I invite you to consider whether you have any interests you feel you ought to disclose.

Mr Maxwell: I do not think there are any interests I need to disclose. However, given that the committee is dealing with the Fire (Scotland) Bill, I should say that I was employed by Strathclyde fire brigade for more than 10 years prior to being elected to the Parliament.

The Convener: I am grateful for that.

I revert to our youth justice inquiry. Fergus McNeill has given us a useful illumination of where we are and the relevance of John Marshall to the problem that Jackie Baillie highlighted. It might be helpful to decide which witnesses we want to call. I have glanced at the list of possible witnesses and it seems to me that some fit fairly neatly into categories. I do not know whether it would be sensible to try to deal with them on that basis. I am open to suggestions. John Marshall would be a useful person for the committee to take evidence from and there might be other witnesses who would link in with the general thrust of what he might say.

Fergus McNeill: I suggested that representatives of health boards be invited to respond to criticisms that have been made. However, I am not sufficiently well aware of structures and systems within health boards to identify key people. I might need to take further advice on that before giving you clear advice. Somebody who can speak for health boards' involvement in strategies would complement John Marshall's more specialist advice on the provision of particular forensic services to young people with mental health problems. I do not think that

anybody else on the list has a direct bearing on mental health services.

I was struck by the detail and quality of the evidence provided in the submission on autistic spectrum disorders from the National Autistic Society. If we are considering inviting witnesses to give evidence on mental health services, it might be beneficial to invite somebody from that organisation too.

The Convener: That would be helpful, if members agree to it.

I am considering who we might have as our first tranche of witnesses. It seems to me that that will include John Marshall and the National Autistic Society, which will be invited to send a representative who feels able to talk about this particular aspect. Concerning health boards, I am sure that Jackie Baillie and I have a natural interest in Argyll and Clyde NHS Board, which covers Jackie Baillie's constituency and the West of Scotland, where we have fairly marked problems. However, other members may take the view that, for example, Greater Glasgow NHS Board ought to be invited.

Jackie Baillie: I can offer some experience here. I suspect that you will get a different answer from each health board. I would quite like to look at the best and the worst, if we can find the worst.

The Convener: Are we in a position to make such an assessment? I am not sure that we are.

Jackie Baillie: Okay. Perhaps we could have a panel of health boards. It would be quite useful to draw out the different experiences of health boards throughout Scotland.

The Convener: It seems to me that the issues revolve around perceived privation areas such as that which Jackie Baillie has mentioned and the Glasgow area, where there are specific considerations giving rise to good working practice. Very relevant to what is happening is the ability of those areas to relate to the health board input. If we invite a panel of health board representatives, it might be appropriate to include a representative from a rural or more remote area, to get some idea of what the contrasts are.

Maureen Macmillan: We could invite one of the island health boards to send a representative.

The Convener: Whatever.

Fergus McNeill: There might be merit in that. A problem that is sometimes discussed is the fact that the person who is sent to the youth justice strategy group to represent health is often the consultant or registrar who is interested in forensic issues and young people who offend as well as having mental health issues. That person does not necessarily have any control over financial issues,

so although they can encourage, they do not bring resources to the table to contribute to the youth justice service locally—they bring only expertise, valuable though that is. In a health authority in a rural area, those links may be closer because of scale and, consequently, we might get something interesting from such an authority on that. The problem with inviting Greater Glasgow NHS Board is that it would probably nominate John Marshall. We might want John Marshall and somebody in a senior managerial position to comment.

The Convener: Someone from the health board.

Fergus McNeill: Yes.

The Convener: Does the committee think that, whoever we get from health boards, it would be helpful to have somebody who can speak with health board stature or authority? It would be difficult for an employee of a health board to contribute in that way. Would it be appropriate for us to ask the clerks to communicate with health boards? We have mentioned Argyll and Clyde NHS Board and Greater Glasgow NHS Board. Do you have a further suggestion, Maureen?

Maureen Macmillan: Perhaps Orkney NHS Board.

The Convener: We should ask specifically that the health boards produce somebody who can speak with authority on behalf of the board and who is versed in how the board engages with the youth justice system. That would probably involve three people. Do members want to extend the invitation further? Is there another area to consider?

Fergus McNeill: There are a range of voluntary sector organisations that deal with mental health, but I cannot think of a voluntary sector project that works specifically at the interface between health and youth justice. I can think of examples in adult criminal justice. It might be worth contacting one or two of the larger organisations, such as the Scottish Association for Mental Health and the Richmond Fellowship, to see whether they feel that they could contribute oral evidence. However, the committee may not want to over-egg the pudding.

Maureen Macmillan: There is also an organisation in the Highlands called the Highland users group, which is the users of mental health services.

The Convener: Users in general?

Maureen Macmillan: Yes, including children. I know that the group does some work in schools, although that is more to do with young people's attitudes to mental health. It would be worth asking whether the group has anything to say on the issue.

The Convener: I am anxious to remain focused on the youth dimension. That is the specific area that we want to probe.

Maureen Macmillan: It might be worth asking whether that group has anything to say on the youth dimension, even if it is a more general organisation.

The Convener: We shall ask the clerk to inquire and to let us know the response. In the meantime, our first evidence-taking session looks as though it will involve John Marshall, the National Autistic Society and three representatives from three health boards. If the organisation to which Maureen Macmillan refers produces someone, they could join the first session.

Jackie Baillie: The Association of Directors of Social Work has made several critical comments about gaps in provision and the performance of other agencies. I am not sure whether the ADSW should be fitted into the first evidence-taking session or whether the committee wants a more comprehensive overview of the whole system from it, but I would find it helpful to hear from the ADSW.

Fergus McNeill: I suggested chairs of youth justice strategy groups to explore the first issue—the effectiveness of multi-agency working. Rather than deal with a specific issue such as mental health, the ADSW might sit alongside that, because it has a broader overview.

I thought that we could consider youth justice strategy groups that are differently constituted and have different chairs. Most groups are chaired by social work managers, but in Dumfries and Galloway the chief constable of Dumfries and Galloway constabulary—David Strang—is the chair. He would be a useful witness. One or two groups may be led by chief executive departments rather than by social work departments and it might be interesting for one or two chairs with different disciplinary or departmental backgrounds to attend, perhaps along with the ADSW in a subsequent session.

The Convener: That suggestion takes us neatly into a second evidence-taking session and makes much sense. Is the committee content with Fergus McNeill's suggestion about representatives of youth justice strategy groups? That might be a good time to bring in the ADSW, if Jackie Baillie is content with that.

Fergus McNeill: Does the committee consider the suggestion of PA Consultancy useful? I am not sure about it, but I do not see why it would be inappropriate. The Executive has commissioned it to assist with the business of multi-agency planning and delivery. It would be useful to hear about its work. However, commercially sensitive issues may be involved.

The Convener: A conflict of interest might arise. If the group is retained by the Executive, it may be constrained in what it can disclose to us.

Fergus McNeill: The organisation may or may not feel able to contribute—that depends on the stage that its work has reached.

The Convener: The argument could be made that through its own investigation, the committee may want to formulate an independent view of where we are. I feel that PA Consultancy is not directly relevant to our needs.

Jackie Baillie: I agree. We can pick that up should we invite the Executive or the minister to give evidence, given that PA Consultancy is reporting to the Executive.

The Convener: I am trying to pick out a third possibility for the second evidence-taking session. The ADSW is coming. We might fit in Bill Whyte conveniently.

Fergus McNeill: The committee may want to have an academic panel that combines Bill Whyte with other experts on the effectiveness of youth crime prevention measures. The director of the Scottish institute for residential child care would be a suitable panel member.

I suggested asking Scottish Executive staff about recruitment and retention initiatives because an Executive working group—I do not remember its name—has dealt with social work recruitment and retention. Civil servants who are involved in that could join a panel that involves the ADSW, which has something to say about recruitment and retention. However, that would involve a slight change in direction, thematically, on that day.

The Convener: Yes. Evidence from the civil servants on the working group would be relevant. How does that sound to the committee? Would that make for a fairly cohesive evidence-taking session?

14:30

Jackie Baillie: The Executive officials on the working group will not have policy responsibility for youth justice. We might want to hear from those who have that responsibility at a later stage, but they are not on our list. If we want to separate the evidence from the Executive officials thematically, that is fine as long as we are conscious that we are doing that. However, the custom is that the Executive officials are brought in at the end of the inquiry. If we want to do things thematically, we will still need to hear at a later stage from the officials who have the policy lead for youth justice. They will be the people who have commissioned PA Consultancy.

The Convener: At the end of an inquiry, we would normally hear from the minister, but the minister would not normally have a sole slot. I think that we would normally hear other evidence on that day, but it depends on the schedule.

Fergus McNeill: The committee might feel that it is better placed to engage with civil servants and ministers after it has heard the evidence from the other parties. In that sense, it might make sense to keep the different parts of the Executive till the end.

The Convener: I am leaning towards that idea. I feel that the committee needs to get some basic information on which to form its own opinions and judgments, in which case we could leave the Executive until later. That means that we still have a slot in our second tranche of evidence taking.

Colin Fox (Lothians) (SSP): Have we agreed to Fergus McNeill's suggestion that we hear about youth crime prevention in that second evidence-taking session?

The Convener: We will hear from the youth justice strategy groups and then from ADSW. We also wondered about hearing from Bill Whyte, but I am not sure whether we made a final decision on that.

Fergus McNeill: How many evidence-taking sessions will the committee have?

The Convener: At the moment, I think we will allow for three main evidence-taking sessions.

Fergus McNeill: In that case, the committee might want to combine the local strategists with some of the academic witnesses such as Bill Whyte and experts on youth crime prevention such as Professor Stewart Asquith. However, that could be a long meeting.

The Convener: It might be interesting to hear from the academic witnesses immediately after hearing some practical views. The third slot, then, might consist of an expert on youth crime prevention measures who, after further inquiry, might or might not be Mr Asquith. What does that do to Mr Whyte?

Fergus McNeill: I think that he should definitely stay, given the near unanimous positive feedback on the youth justice network and on the work of the criminal justice social work development centre.

The Convener: Our second evidence-taking session would neatly consist of four slots: the chairs of youth justice strategy groups; representatives from ADSW; Professor Asquith, or some other suitably qualified person; and Bill Whyte.

Fergus McNeill: What we are missing is the residential side. It may or may not be feasible to squeeze that into the third session.

The Convener: I think that we could hear about that in the third evidence-taking session, given that we now have quite a lot of proposals that neatly slot in.

I also think that it might be useful to do some of our visits before we start taking evidence. Various visits to residential centres have been proposed. Do members want to suggest their preferences?

Fergus McNeill: I should add that I suggested that we might take evidence from heads of secure units because I was conscious that we had not yet identified a residential school or secure unit as a site visit.

My thinking was that it made better sense to have site visits that allow you to engage with a range of people, given that the focus is on multi-agency working. The particular issues around residential and secure accommodation could be picked up in oral evidence.

The Convener: In that case, would it be appropriate to look specifically at the heads of secure units? We have several such units in Scotland. I do not know whether the committee has a view. At our seminar, did we not have representatives from Bishopbriggs?

Fergus McNeill: Yes, from St Mary's, and from St Philip's in Airdrie.

I think that Paddy—whose second name I have forgotten—who is the head at Airdrie, may have been at one of the seminars. However, I do not have any views on the heads from whom you should take evidence.

The Convener: Would the committee like there to be collective representation? We might get three heads, or something like that.

Members indicated agreement.

The Convener: I will leave the clerks to make some inquiries. We could have those heads in slot one. I presume that it would be appropriate to take evidence from the director of the Scottish institute for residential child care.

Fergus McNeill: She might suggest that someone on her staff is better placed than she is to give evidence on the issue. I do not know whether she will do that, but I would tend to follow her advice on who on her team is best placed to provide the best evidence.

Mr Maxwell: Would it be appropriate to invite the Scottish Commission for the Regulation of Care to that session? Given its inspection role, that would be the obvious place to hear from it.

The Convener: Yes. We could also invite Andrew McLellan, Her Majesty's chief inspector of prisons for Scotland.

If I am looking at my little diagram correctly, we will have three solid evidence-taking sessions at which we will engage with very useful contributors. The final session will be reserved for the minister and others, depending on the decisions we make about Scottish Executive representation. Would that be acceptable to the committee?

Members indicated agreement.

Fergus McNeill: One organisation that we have missed from the list is the Scottish Children's Reporter Administration, which would slot in easily to the group on strategy, which includes ADSW.

The Convener: Okay, so we will bring in the Scottish Children's Reporter Administration there.

Bill Butler: Is it possible to slot Who Cares? Scotland into one of the sessions? It might be useful.

Fergus McNeill: It might be best to slot it into the session with the heads of secure units and the people from the Scottish institute for residential child care.

The Convener: We might bring it in as a co-contributor in one of the slots, if that would be acceptable.

Bill Butler: Yes.

The Convener: It is quite useful to keep the slots to four, then we can manage our time. Who Cares? Scotland could be placed in the slot with the director of the Scottish institute for residential child care, or whoever turns up from that organisation. The final evidence session will be the minister plus, on which we will make a decision nearer the time.

That is helpful, as it will let the clerks carry out some initial work. It is never easy to marry up the people with the timings and slots.

Coming up imminently are committee members' visits to various destinations. Given our two new members, what do we do? Do we effect a simple transfer? I am told that it is sorted, which is reassuring.

Unless the committee has any further thoughts, I suggest that we proceed as we have discussed. We should get under way with our visits and set up the evidence-taking sessions, then we will be in a position in early spring to draw everything together. Do members wish to raise any points?

Mr Maxwell: I have one point. I was not here when the visits were planned, but I notice that under the list of four visits that have been organised, the clerk's paper states:

"There are a number of areas of interest not included in this current programme, including a secure unit and a special school."

I would certainly be interested in including a secure unit.

The Convener: I cannot remember the thinking behind that. I was aware that the two justice committees, as part of a programme of visits, had visited, for example, Polmont Young Offenders Institution. In fact, Stewart, you and I were there on that occasion. I think that other members visited other institutions, but none, I suspect, specifically related to custody for young people.

Gillian Baxendine: We simply set up the first four visits to get going. The committee has Conveners Group funding for further visits, so if members want to undertake one or two of the visits that have been identified, we can arrange it.

Mr Maxwell: That is fine. I just wondered why it was not included.

The Convener: It has been difficult to focus on where we need to go in the short term, but that is not to militate against other possibilities, if they would be helpful, once more information is available.

I thank members, and Fergus McNeill for his assistance.

We now move into private session for item 6.

14:41

Meeting continued in private until 16:11.

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