

SOCIAL JUSTICE COMMITTEE

Wednesday 26 June 2002
(*Morning*)

Session 1

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SOCIAL JUSTICE COMMITTEE

13th Meeting 2002, Session 1

CONVENER

*Johann Lamont (Glasgow Pollok) (Lab)

DEPUTY CONVENER

*Mr Kenneth Gibson (Glasgow) (SNP)

COMMITTEE MEMBERS

*Robert Brown (Glasgow) (LD)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Linda Fabiani (Central Scotland) (SNP)

*Mrs Lyndsay McIntosh (Central Scotland) (Con)

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE SUBSTITUTE

Ms Sandra White (Glasgow) (SNP)

*attended

CLERK TO THE COMMITTEE

Jim Johnston

SENIOR ASSISTANT CLERK

Mary Dinsdale

ASSISTANT CLERK

Craig Harper

LOCATION

The Chamber

Scottish Parliament

Social Justice Committee

Wednesday 26 June 2002

(Morning)

[THE CONVENER opened the meeting at 10:03]

Items in Private

The Convener (Johann Lamont): I welcome members to the last meeting before the summer recess of the Social Justice Committee.

Under item 1 on the agenda, I ask members to agree to take items 6, 7 and 8 in private. Item 6 relates to consideration of a draft response to an Executive consultation. Item 7 relates to consideration of the committee's draft annual report. Item 8 relates to the committee's response to members' meeting with Communities Against Poverty, which was about older people and poverty. Do members agree?

Members indicated agreement.

The Convener: We move on to item 2. I ask Robert Brown to declare whether he has any interests.

Robert Brown (Glasgow) (LD): I declare my usual interests. I am a member of the Law Society of Scotland and I have a consultancy with Ross Harper solicitors in Glasgow.

The Convener: Do members agree to take in private at future meetings of the committee our consideration of the draft stage 1 report on the Debt Arrangement and Attachment (Scotland) Bill?

Members indicated agreement.

Debt Arrangement and Attachment (Scotland) Bill: Stage 1

The Convener: We move on to item 3, which is on the Debt Arrangement and Attachment (Scotland) Bill. We seek members' comments on, and agreement to, the key issues that arise from the oral evidence that we have taken. Members will be aware that copies of all written evidence will be issued to them after 19 July, which is the closing date for receipt of evidence. It would be useful if members could provide the clerks with their comments on the written evidence by 23 August. We are keen to give as much regard to the written evidence as we give to the oral evidence. It is important for members to recognise that their comments on issues that have been flagged up in oral evidence will not preclude their making comments on issues that may emerge from the written evidence.

I ask for members' comments on paper SJ/02/13/03, which deals with the issues that arise from the oral evidence that we took on the bill.

Robert Brown: The paper is quite a good starting point. We should consider including in the report two or three of the issues that it covers. The first is the possible priority for council tax debt and rent arrears. I am not sure that I have reached a conclusion on that issue, but we should work through it and form a view.

The second issue arose during our consideration of exceptional attachment orders. We heard a lot of evidence, not least from the Society of Messengers-at-Arms and Sheriff Officers, about the need to separate out the pending, or evaluation, aspect of those orders from the removal aspect, which had been merged in the mechanism. That is different from the ordinary attachment arrangement. The paper also mentions the charge for payment issue.

On money advisers, the question of where the advice comes from—whether it is independent advice or council advice—is important. I do not think that we heard direct evidence of whether there should be a statutory duty to provide independent debt advice. We do not want to get into the bowels of what councils do at their discretion, but there may be merit in including an overarching provision on how advice is provided and what advice should be provided.

The Convener: On Robert Brown's point about appropriate advice, I am anxious to ensure effective monitoring of whether advice is given in a meaningful way. A package of information about debt advice that comes through people's doors

may not be meaningful, as such information may not deal with the sensitivities that exist around literacy or mental health problems, or the other issues or prejudices that may prevent people from taking such advice. We should be proactive in giving advice.

It will be interesting to consider independent advice and whether it is possible to monitor advice effectively. The issue is whether the advice is real. In other words, I would like to assume that the advice that is given is genuine and that it supports people and meets their needs, whether it comes from a local authority or from the voluntary sector. A council should find it possible to separate out the provision of advice from the fact that it is seeking debt recovery for council tax debt or rent arrears.

Robert Brown: That raises the issue of the quality of advice. All the organisations accepted that a need exists for more experienced money advisers. They also accepted that the services provided in different parts of the country and by different organisations vary. There is a need to set benchmarks and improve standards.

Mr Kenneth Gibson (Glasgow) (SNP): The number of money advisers and the money to pay for them are matters that are inherent in the bill—they are sideways issues.

A number of witnesses questioned whether exceptional attachment orders are required. The Executive gave a robust defence of that aspect of the bill, but many of the witnesses did not agree with the Executive's position. We should consider that issue. We should also consider the speed with which the provisions on exceptional attachment orders are implemented. That fundamental part of the bill raised concerns for some of our witnesses.

Karen Whitefield (Airdrie and Shotts) (Lab): There is a difference of opinion about whether exceptional attachment orders are necessary. The considerable evidence about the orders came not just from those who do not believe that the orders are necessary. Those who believe that they are necessary may also think that work needs to be done on the proposals to ensure that the orders are truly exceptional. That evidence should feature in our report.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Robert Brown made some points about council tax debt and rent arrears. We should ensure that the Convention of Scottish Local Authorities submits a written paper, as it was unable to give oral evidence. It is important that we get a wider local authority view than just the view of Dundee City Council, the one authority from which we took evidence.

I would also like to dig a bit deeper into the role of the money advisers and the fact that they will

give advice and monitor the situation. Another point that came up in the evidence from the Scottish Association of Law Centres concerned the role of the Scottish ministers. We should tease out some evidence on that.

Mrs Lyndsay McIntosh (Central Scotland) (Con): I have a point on the requirement that attachment should reduce the debt by at least 10 per cent or £50. The paper asks, "Is this too low?" If we look back at the evidence, we see that a lot of the witnesses would have us believe that 10 per cent or £50 is a bit on the low side for attachment to proceed.

The Convener: I was interested in the point made by either Citizens Advice Scotland or Money Advice Scotland that the bill would not affect 70 per cent of their cases. We need to explore that. We need to reread the evidence and consider whether that point is reflected in any evidence that comes from elsewhere.

Karen Whitefield: That is really important. The evidence that the ministers gave us when they robustly defended the proposals suggests that most people should never need to have an exceptional attachment order made against them. If that does not sit with the evidence that CAS and others gave that the vast majority of debtors will qualify for an exceptional attachment order, we must consider that and possibly flag it up in the stage 1 report.

Mr Gibson: Everyone is looking for safeguards for the debtor, but the bill is also about where to strike the balance. The fact that the report of the working group on a replacement for poinding and warrant sale is called "Striking the Balance: a new approach to debt management" is important. Striking the balance is exactly what we want to try to do. The bill is important and we want to ensure that we get it right.

I am struck again by what Cathie Craigie said about the fact that the same people who give advice will monitor the situation. I asked questions on that last week. There is a possibility of a conflict of interest. For example, the local authority might give advice on debt, but also be a creditor. Dundee City Council made it clear that its view is that its debts come first. The committee does not necessarily share that view. That aspect of the bill must be considered in some detail.

Robert Brown: A point was also made on the possible composition of debts and interest freeze. There is a slight question mark over what our powers in that respect are and how far the matter is devolved, but we heard much forceful evidence, so those matters should be considered, perhaps not as part of our consideration of the bill, but as part of general diligence reform. That might give us longer to consider them properly. There is

some merit in being able to say that, if a debtor reaches a certain point, the debt will be cleared and they will have a clean sheet. That would be useful for organising debt.

Mr Gibson: Interest freeze is important, but that must be arranged between the money adviser and the creditor. From the creditor's point of view, the arrangement would have to be voluntary. However, I understand that Westminster is considering interest freeze as part of an overhaul of the Consumer Credit Act 1974.

Robert Brown: There is a problem with reserved matters. Perhaps one could have a power against a composition arrangement to freeze interest, forgetting about the substantial regulation of consumer credit, which is slightly different.

The Convener: If committee members have any further points or wish to provide extra information, it would be helpful if they could e-mail the clerks as soon as possible before 19 July. That applies in particular to consideration of the oral evidence. We will consider the written evidence thereafter. Are we agreed that we will proceed in that way?

Members indicated agreement.

Petition

Summary Warrants (Alleged Debtors) (PE373)

10:15

The Convener: Item 4 concerns petition PE373. We are asked to agree that the issues that are raised in the petition be considered in conjunction with our stage 1 report on the Debt Arrangement and Attachment (Scotland) Bill. Does the committee have any comments on the petition and the large bits of paper that all apparently say the same thing? Does the committee want to add anything other than that we will bear them in mind in the report?

Robert Brown: The petition echoes the need for a charge for payment to be served before someone receives a summary warrant. We have come at that point also. I am less persuaded of the need for the debtor to be able to challenge the summary warrant as a matter of routine, but there might be some advantage in tying a more detailed calculation of the debtor's arrears position to the summary warrant. I am not sure what the local authorities provide with a summary warrant. If they provided a breakdown that said, for example, "1998-99: council tax £X", the debtor could work through that and have a limited right to challenge it. There might be some merit in such a procedure, but it should not stop the summary warrant procedure, because 99 times out of 100 there is no issue with the merits of the summary warrant, apart from the odd calculation problem.

The Convener: Do we agree to take the petition into account when dealing with our stage 1 report?

Members indicated agreement.

Homelessness Task Force (Legislative Proposals)

10:17

Meeting continued in private until 10:37.

The Convener: Item 5 concerns consultation on the legislative proposals that are contained in the homelessness task force's final report. The committee will note that the Scottish Executive intends the legislative proposals that are contained in the consultation to be implemented in the forthcoming homelessness bill. We have been asked, rather than to respond to the consultation, to ensure that the issues that it covers are covered in the committee's stage 1 consideration of the homelessness bill in the event of the committee being designated lead committee for the bill. It is a reasonable assumption that we will be the lead committee. Is that approach agreed?

Members *indicated agreement.*

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