



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# EQUAL OPPORTUNITIES COMMITTEE

Thursday 4 December 2014

Session 4

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**Thursday 4 December 2014**

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**EQUAL OPPORTUNITIES COMMITTEE**  
**20<sup>th</sup> Meeting 2014, Session 4**

**CONVENER**

Margaret McCulloch (Central Scotland) (Lab)

**DEPUTY CONVENER**

\*Sandra White (Glasgow Kelvin) (SNP)

**COMMITTEE MEMBERS**

\*Christian Allard (North East Scotland) (SNP)

\*John Finnie (Highlands and Islands) (Ind)

Alex Johnstone (North East Scotland) (Con)

\*John Mason (Glasgow Shettleston) (SNP)

\*Siobhan McMahon (Central Scotland) (Lab)

\*attended

**CLERK TO THE COMMITTEE**

Ruth McGill

**LOCATION**

The James Clerk Maxwell Room (CR4)



## Scottish Parliament

### Equal Opportunities Committee

*Thursday 4 December 2014*

*[The oldest committee member opened the meeting at 09:30]*

#### Temporary Convener

**Sandra White (Glasgow Kelvin) (SNP):** Good morning and welcome to the 20th meeting in 2014 of the Equal Opportunities Committee. Please set any electronic devices to flight mode or switch them off, as they interfere with the Parliament's broadcasting equipment.

As the convener is not present today and a new deputy convener has yet to be chosen, I am chairing this part of the meeting, as the oldest member of the committee. *[Laughter.]* I am only just the oldest member.

Under rule 12.1 of standing orders, the committee must choose a temporary convener for the meeting. I therefore seek nominations.

**John Finnie (Highlands and Islands) (Ind):** I nominate you.

**Sandra White:** Thank you. I seek the committee's agreement to appoint me as temporary convener.

**Members** *indicated agreement.*

**The Temporary Convener (Sandra White):** Thank you. Apologies have been received from Margaret McCulloch, the convener, and from Alex Johnstone. I put on record the committee's thanks to Marco Biagi, who has moved on to greater things, and I wish him well in his new role.

## Interests

09:31

**The Temporary Convener:** Item 2 is a declaration of interests. In accordance with section 3 of the code of conduct, I am required to declare any interests relevant to the committee's remit. I have no interests to declare.

## Deputy Convener

09:32

**The Temporary Convener:** Item 3 is the choice of a deputy convener. On 1 June 2011, the Parliament agreed motion S4M-165, that only Scottish National Party members are eligible to be chosen as the deputy convener of the Equal Opportunities Committee. I therefore seek nominations.

**John Mason (Glasgow Shettleston) (SNP):** I nominate you as deputy convener, and I welcome you as a new member of the committee.

**John Finnie:** I second that, and likewise welcome you.

**The Temporary Convener:** Thank you very much.

*Sandra White was chosen as deputy convener.*

## Subordinate Legislation

**Civil Partnership (Prescribed Bodies) (Scotland) Regulations 2014 (SSI 2014/303)**

**Same Sex Marriage (Prescribed Bodies) (Scotland) Regulations 2014 (SSI 2014/305)**

**Marriage and Civil Partnership (Prescribed Forms) (Scotland) Regulations 2014 (SSI 2014/306)**

09:33

**The Deputy Convener (Sandra White):** Under item 4, there are three Scottish statutory instruments before us for consideration. The Delegated Powers and Law Reform Committee determined that it did not need to draw the instruments to the attention of the Parliament. Members can now consider any issues that we may wish to raise in reporting to the Parliament on the instruments. Members should also note that no motions to annul have been received in relation to the instruments.

As no member wishes to comment, does the committee agree that it does not wish to make any recommendation in relation to the instruments?

**Members** *indicated agreement.*

## Public Petition

### Access to Justice (Environment) (PE1372)

09:33

**The Deputy Convener:** Item 5 is a discussion on petition PE1372, by Friends of the Earth Scotland, on access to justice on environmental matters. Taking into account work done by the Justice Committee that is relevant to the petition, and correspondence with the Scottish Government, members are asked to consider whether to close the petition or to take another course of action.

The committee has received last-minute correspondence from Friends of the Earth Scotland. Members may wish to consider whether we should seek legal advice on the particular issues that were raised by Friends of the Earth.

**John Finnie:** This item seems to have been on the agenda almost since I started on the committee. I do not know that we are any further forward or that there is any clarity, so I think that there could be benefit in your suggestion about seeking legal advice.

I draw the committee's attention to two recent contributions, in addition to the references in the committee paper to occasions on which the issue has been raised by me and other members.

The Justice Committee, at paragraph 38 of its stage 1 report on the Courts Reform (Scotland) Bill, stated:

"The Committee notes the differences between the requirements of the Aarhus Convention and the scope of judicial review in Scots Law. The Committee is sympathetic to calls for the introduction of an environmental tribunal for Scotland."

Last week, during questions to the new Cabinet Secretary for Justice, I asked Michael Matheson whether he would undertake to establish an environmental court and whether he believed that the Aarhus convention was being complied with. He said:

"I am always open to considering how we can improve access to our justice in an appropriate way."

He went on to say:

"I recognise the importance of having different specialist courts, and I am open to considering how such specialisation can be continued in the future."—[*Official Report, Justice Committee*, 25 November 2014; c 44.]

Subsequently, I lodged question S4W-23460:

"To ask the Scottish Government what progress it has made on delivering the commitment in the SNP 2011 manifesto regarding an environmental court."

Given the live issues, and the fact that the cabinet secretary will consider the question that I have lodged, I respectfully suggest that we keep the petition open and get some further advice on where we stand with regard to the Aarhus convention.

**The Deputy Convener:** Thank you—I know that you have a particular interest in the issue, having been on the Justice Committee along with John Mason. You make a very good suggestion on the legal advice, and I will put it to the committee at the end of the discussion.

**Christian Allard (North East Scotland) (SNP):** I am on the Justice Committee too, and I recall that—as John Finnie said—the committee was sympathetic to having a special court. However, there is no timetable for that; the committee did not push to have a provision included in the bill to set up such a court straight away.

The last-minute submission from Friends of the Earth Scotland makes it clear that the organisation thinks that the Scottish Government is not sticking to the international Aarhus obligations. I fail to understand that, because the previous letter from the cabinet secretary made it very clear that

"the Scottish Government complies with the ... Convention" and that

"Furthermore no legal challenge against the Scottish Government made on the grounds of non-compliance with the ... Convention has been successful."

I am not sure about that part of the Friends of the Earth submission. Are we not flogging a dead horse by trying to get an answer that we already have? If the main reason for keeping the petition open is so that we can decide whether the Scottish Government is compliant, I note that we already have an answer from the cabinet secretary. If that is the main point, I have no objection to closing the petition.

**John Mason:** If we are going to take legal advice and leave the petition open just now, I would be comfortable with that. It would be interesting to hear from the cabinet secretary. One suggestion was that we should have the cabinet secretary before the committee and ask him about it, and I do not have any problem with that.

My main point is that we are talking about access to justice, which is not a black-and-white issue but a sliding scale. We will never get a yes or no answer: at some stage, someone will have to make a judgment.

As I said, I am happy for us to take more advice on that, but it is part of a wider issue. Access to justice in this country is not good at all, across the board. If someone is poor enough they get legal aid, and if they are rich enough they do not need it, but most of the people in the middle do not have

access to justice. The issue goes much wider than environmental matters, and I would not want the environment suddenly being put at the top of the queue while everybody else does not get access to justice. However, I totally agree that there should be access to justice on environmental matters.

**The Deputy Convener:** I take on board the views of members, including Christian Allard. The fact that there was a court case in Europe has been highlighted, and it would not do us any harm to seek legal advice on that aspect.

With regard to what John Finnie said, I assume that, once we get the legal advice, the timescale will be roughly the same time as that for the answer to John Finnie's written question, so we could look at both at the same time.

**John Finnie:** The expected answer date is the 15th of this month. I do not think that there is any conflict between what anyone has said, but the mere fact that we are still talking about the issue four years on suggests that there is no clarity. No one is suggesting that Friends of the Earth is doing anything other than acting in good faith—as John Mason said, these things are often a matter of opinion.

It is obviously best if we can clarify matters without an opinion necessarily having to be given by a court. That is the ideal situation, as there is a lack of clarity at present and further advice would help us to make an appropriate decision.

**The Deputy Convener:** Does the committee agree that we should continue with the petition and keep it open until we get the legal advice and the answer to John Finnie's written question?

**Members** *indicated agreement.*

**The Deputy Convener:** Thank you. That concludes the public part of the meeting.

09:40

*Meeting continued in private until 11:01.*



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