



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# JUSTICE COMMITTEE

Tuesday 8 January 2013

Session 4

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**Tuesday 8 January 2013**

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**JUSTICE COMMITTEE**

**1<sup>st</sup> Meeting 2013, Session 4**

**CONVENER**

\*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

**DEPUTY CONVENER**

\*Jenny Marra (North East Scotland) (Lab)

**COMMITTEE MEMBERS**

\*Roderick Campbell (North East Fife) (SNP)

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

\*Colin Keir (Edinburgh Western) (SNP)

\*Alison McInnes (North East Scotland) (LD)

\*David McLetchie (Lothian) (Con)

\*Graeme Pearson (South Scotland) (Lab)

\*Sandra White (Glasgow Kelvin) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Kenny MacAskill (Cabinet Secretary for Justice)

**CLERK TO THE COMMITTEE**

Irene Fleming

**LOCATION**

Committee Room 2



## Scottish Parliament

### Justice Committee

*Tuesday 8 January 2013*

[The Convener *opened the meeting at 10:01*]

### Decision on Taking Business in Private

**The Convener (Christine Grahame):** Good morning and welcome to the Justice Committee's first meeting in 2013. I wish you all a happy new year with a collective hug and kiss. You should not look so unhappy about that, Mr Finnie.

I ask everyone to completely switch off mobile phones and other electronic devices as they interfere with the broadcasting system even when switched to silent. We have received no apologies—the team is complete.

Item 1 is to consider whether to take in private items 6 to 9. Are members agreed?

**Members** *indicated agreement.*

## Subordinate Legislation

### Knife Dealers (Licence Conditions) (Scotland) Order 2012 [Draft]

10:01

**The Convener:** Item 2 is consideration of subordinate legislation. We will take evidence on the draft order from the Cabinet Secretary for Justice, whom I welcome to the meeting along with two Scottish Government officials: Quentin Fisher, head of licensing branch; and Walter Drummond-Murray, policy officer in the criminal law and licensing division.

Do you wish to make an opening statement, cabinet secretary?

**The Cabinet Secretary for Justice (Kenny MacAskill):** No, thanks, convener.

**The Convener:** That is grand. Given that there is no statement, there will be no questions from members.

We now move to item 3, which is formal consideration of, and the debate on, the motion to recommend approval of the draft order.

*Motion moved,*

That the Justice Committee recommends that the Knife Dealers (Licence Conditions) (Scotland) Order 2012 [draft] be approved.—[*Kenny MacAskill.*]

**The Convener:** Do members have any comments to make?

**Jenny Marra (North East Scotland) (Lab):** Does the cabinet secretary have any plans to toughen up licensing conditions in the near future?

**Kenny MacAskill:** With regard to knives?

**Jenny Marra:** Yes.

**Kenny MacAskill:** We constantly discuss and review the situation and are happy to take on board any thoughts that others might have. Indeed, we speak to the relevant trade bodies about these matters. We keep the issue under constant review to ensure that we find out what might help to make Scotland a safer place.

*Motion agreed to,*

That the Justice Committee recommends that the Knife Dealers (Licence Conditions) (Scotland) Order 2012 [draft] be approved.

**The Convener:** I thank the cabinet secretary for this swiftest of attendances.

**Graeme Pearson (South Scotland) (Lab):** On a point of information, convener, is there any chance that the cabinet secretary can take some questions about police reform?

**The Convener:** In fairness to the cabinet secretary, I think that we would have had to have given him notice of that. I also point out that the item is not on our agenda. I am happy to ask the cabinet secretary to come back after we have had our discussion today. Is that okay, cabinet secretary?

**Kenny MacAskill:** Yes. That would be appropriate.

**The Convener:** Indeed. I am sure that you have other matters to deal with. Thank you very much.

**Civic Government (Scotland) Act 1982  
(Metal Dealers' Exemption Warrants) Order  
2012 (SSI 2012/324)**

**Act of Sederunt (Fees of Sheriff Officers)  
(Amendment) (No 2) 2012 (SSI 2012/341)**

**The Convener:** Item 4 is consideration of two negative instruments. The Subordinate Legislation Committee had no comments to draw to our attention on the instruments. If members have no comments, is the committee content to make no recommendations?

**Members** *indicated agreement.*

## **Police and Fire and Rescue Service Reform**

10:04

**The Convener:** Item 5 is a progress update on police and fire and rescue service reform, which can be found in paper J/S4/13/1/4. The Scottish Police Authority and the chief constable of the police service of Scotland have also provided updates on police reform, which were emailed to members before Christmas. The committee also got in its Christmas stocking something else that appeared on the SPA website.

I am quite happy to have a discussion first before we decide whether we want to take further evidence from, say, the chief constable, the chair of the SPA or indeed the cabinet secretary. The floor is open to members—off you go.

**Graeme Pearson:** Time is marching on and there seems to be a great deal of confusion in the arrangements going forward. The point has been made to me on a number of occasions—most recently, this morning—that trade unions are not being consulted on or informed about the movement in the arrangements for the single Police Authority.

The chief constable's letter appears to be a plea to Parliament to remove some of the frictions that he perceives. We had assurances from the chair of the Police Authority that the matters would be resolved in December, but they were not. We are now told that the authority will meet later this month. There does not seem to be too much information to give us comfort that the whole machine is moving forward effectively.

We should hear from the cabinet secretary, the chief constable and the SPA's chair. I would like to have some confidence that we know where we are going with this thing, because we have fewer than three months left.

**The Convener:** I hear what you say about there being no settlement on the circumstances for staff yet, but I think that statutory instruments are going through to protect wages and pensions. Am I correct?

**Graeme Pearson:** Yes.

**The Convener:** I think that I have seen those instruments. However, that is the technical stuff—I understand that.

**Graeme Pearson:** That is right, but staff are not being told whether they will have a job in three months' time and whether they will be working where they currently work. They want to know some of the mechanics and the chemistry of what is going on.

**The Convener:** As I said, statutory instruments will deal with transfers and security of employment. However, I appreciate the practicalities for people.

**Graeme Pearson:** It is concerning that board members have been told that they cannot talk to staff about the arrangements and that they are not happy to have meetings.

**The Convener:** I agree.

**John Finnie (Highlands and Islands) (Ind):** I support Graeme Pearson's comments. We can set aside the fact that it is best practice anyway to engage with all the workforce—I stress the word “all”; that should not be a select few—but there are also statutory requirements to consult when any substantive changes in the workplace are proposed. It would be a good signal for the police service's operation after April if best practice in relation to staff and trade union relations was applied in the run-up to April.

**Roderick Campbell (North East Fife) (SNP):** I agree. There are no two ways about it—it is obviously disappointing that the hoped-for resolution before the end of last year was not reached. We know that the Scottish Police Authority will meet on 18 January and we have seen the chief constable's comments. I kind of agree that we should give the matter some focus and urgency and that we should let the chief constable and the Police Authority know that we are not just ignoring it. The question is about the timescale—what would be an appropriate time that gave them a little longer to try to resolve the situation?

**Alison McInnes (North East Scotland) (LD):** I share other members' concern that the matter has not been resolved. We have only just seen the paper that will go to the SPA board on 18 January. My initial reading of it is not that things have been resolved but that the chair is setting out how he would like matters to proceed. When we take that in tandem with the letter from the chief constable, who says that a change to legislation is needed, there is a pressing need to have the cabinet secretary and the team back in front of us to explore the issues.

**Sandra White (Glasgow Kelvin) (SNP):** I downloaded the paper to the SPA board about 10 minutes ago and I have looked through it. I am rather confused and perhaps concerned. The legislation that was passed on police reform is exactly the same as that on fire service reform. It seems to be the two personalities that are causing the issue. If the same legislation was passed on police reform and on fire reform, I do not know whether I agree with Steve House about changing it. However, we should look again at what is happening in relation to trade unions and staff,

because we have had no comfort from the emails and papers.

**The Convener:** As members know, we wrote to the chair and the chief officer of the Scottish fire and rescue service, who sent a joint reply, not two separate replies—that was a cheery thing. Their letter says:

“The specific responsibilities of the SFRS and the SFRS Board in relation to human resources and finances”—

which are the subject of contention in relation to the police—

“will be dealt with through the Scheme of Delegation. However, we are clear that the SFRS Board is the employer and responsible for setting the strategic direction and through effective scrutiny holding the executive of the Service to account for the delivery of the strategy.

For this to work effectively and efficiently, working within the Scheme of Delegation, the overall day to day financial and human resource management responsibilities will be for the Chief Officer to manage.”

There might be impediments in the legislation—I do not know—that mean that the two gentlemen concerned with the police cannot adopt such an approach.

Graeme Pearson has a comment.

**Graeme Pearson:** Sandra White is right that personalities seem to be involved in the dispute, which is being conducted at public expense. There is public concern that we have allowed the situation to continue. The SPA's paper was delivered to us only at 10 to 7 this morning, although I mean no harm to our secretariat, who have turned it round as quickly as possible.

**The Convener:** You were up at 10 to 7 this morning? My goodness. You just wanted that on the record.

**Graeme Pearson:** Indeed.

From a first rush through the paper, it looks as though there is to be a shadow group of senior people in the police service who will be responsible for human resources, finance and other functions and the Police Authority will employ another group of people who are to be in charge of exactly the same functions. The reform process was supposed to be about reducing management costs to protect front-line services. The proposal does not reflect best practice. The Police Authority board has enough to do to hold the police service to account and to show good governance without trying to manage and drive forward part of the service.

**The Convener:** Do I take it from that and from other members' comments that you think that the resolution that has been reached for the fire and rescue service is a model that could be adopted by the Police Authority and the chief constable?

**Graeme Pearson:** I raised the issue a year ago with the cabinet secretary and said that that is a commonsense approach. I cannot understand why there has been such a difficulty thus far.

**The Convener:** Surely to goodness, the Police Authority and the chief constable are listening to what we have to say, or will read what we have said, but does the committee want me to write on its behalf to ask why they are not simply following the sensible model that the fire and rescue service has adopted and to say, "Let us get on with things"?

**Graeme Pearson:** Yes. We should do that as a matter of urgency.

**The Convener:** Our commitments to prison visits mean that the committee's next meeting will be on 29 January. However, given that the SPA meets on 18 January, if necessary we could factor in a special short committee meeting if we do not get a resolution along those lines or along lines that are satisfactory to both parties. I know that some members have other committee commitments on Wednesday mornings, so we would need to negotiate the time with members.

**Graeme Pearson:** Hopefully, such a meeting will not be necessary.

I want to make a comment on my own behalf—I am happy if other members shy away from this. I find it amazing that the cabinet secretary came here this morning and did not seek to make some statement, irrespective of the administration and courtesies of the committee. The issue is pressing.

**The Convener:** I am not prepared to accept that. I agree with you, but the cabinet secretary has had every opportunity to hear what we have to say on the issue. It would not make much difference. I would never pounce on any witness who has not had notice, let alone the cabinet secretary. If you had given me notice that you wished to raise the issue, I certainly would have brought to the cabinet secretary's attention that we might wish to ask about it.

**Graeme Pearson:** I would have done so after 10 to 7 this morning but, unfortunately, we were not together at that time.

**The Convener:** Wow. I do not know what to say to that.

**Graeme Pearson:** We know that you had a previous association with David McLetchie.

**The Convener:** I think that you have had enough confessions this morning. You might regret that. For anyone who is listening to the meeting, I am glad to say that Mr Pearson is blushing.

**Graeme Pearson:** I always blush.

**The Convener:** That is not true.

Anyway, moving on, the committee wants me to write in those terms—copying in members—to ask why the SFRS model is not being followed, perhaps with a sword of Damocles that if there is not a resolution that is mutually acceptable to the parties following the meeting of 18 January, we will have a special meeting, which we will ask the cabinet secretary to attend, too. If members agree, we should set 18 January as a deadline.

**John Finnie:** It would be prudent to discourage any further engagement of personnel and to sist any on-going proceedings to engage staff. Clearly, two empires are being built, and perhaps trains are running that should be stopped at this early stage.

**The Convener:** Thank you for that. It is also important to put into the letter our concerns about those who are not in the middle of this scrap but who work for the police and who have a great deal of insecurity. They have lives to get on with. We would like the issue to be settled, as would the Scottish public.

Are members happy with that approach?

**Members** *indicated agreement.*

**The Convener:** We now move into private session.

10:15

*Meeting continued in private until 11:30.*



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