



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 23 November 2010

Session 3

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widening the powers—the issue is how the powers are monitored and used.

Cathie Craigie is right—whether the corporate body, the committee or the Local Government and Communities Committee does the review, it must be more wide-ranging and must not consider just how the SPSO operates at present. When Mr Martin attended the Local Government and Communities Committee meeting recently, I asked what action is expected to be taken after the ombudsman lays a report to the Parliament and whether the ombudsman has an enforcement role in relation to the organisation that he reports against. Many petitioners are frustrated that, although reports have been made to the Parliament, that has been the end of the road and no formal instruction has been given to the public body involved to take the action that the ombudsman had outlined to resolve the issues. The wider point is about the ombudsman's powers.

The petitions could be referred to the Local Government and Communities Committee, which I have no doubt would refer us to the discussion in the meeting two weeks ago. It would be useful for all concerned to refer the petitions to that committee and possibly the corporate body. As the funder of ombudsmen, the corporate body could be asked whether it intends to review the SPSO's policies and powers.

The Convener: I understand that we cannot refer a petition to the corporate body, but we can certainly request information from it.

16:30

Nigel Don: I am interested in what John Wilson said. It is perhaps worth reflecting the other side of it, which is that the moment the SPSO has the power to enforce something, first of all it becomes a kind of legal proceeding and, secondly, he or she will be inundated by every person who feels that they have got the wrong answer from the public service. We learned from a tribunals debate a few weeks ago that a million tribunal decisions are made each year in Scotland. I came to the conclusion that another appeal procedure is probably not what we want, because it would immediately be overwhelmed with people who did not like the first decision.

Nevertheless, there probably is a case for reviewing the ombudsman legislation and looking at what the SPSO is supposed to be doing, but it is not obvious to me how we get that done. From what John Wilson said, I am not convinced that the Local Government and Communities Committee is proposing to carry out such a review and, clearly, we are not in a position to do it. It sounds like a Governmental thing or possibly a

Scottish Parliamentary Corporate Body thing. I seek some advice on where we can refer the petition so that the whole basis of the SPSO can be reviewed, because I think that that is the nub of the issue.

The Convener: Does the committee agree to refer the petition to the Local Government and Communities Committee and to seek advice from the SPCB on where would be the appropriate place within the Parliament to review the matter?

Members indicated agreement.

Alex Neil: I see that the ombudsman complained about how the Public Petitions Committee handled its previous session on the petition. I would like to make it clear that there are so many identical letters because we were advised by the clerks that that is what we should do; it is not the case that everybody originally wrote an identical letter. When we had discussions with the clerk, we were advised that it had to be done that way, otherwise we would have sent in just one submission. We followed the advice that we received; it was not a round robin.

Cathie Craigie: I am grateful for that information but I do not know that I am clear even now what the complaints against the SPSO are.

Alex Neil: I am happy, with the permission of the people who have written to me, to supply the Public Petitions Committee, the Local Government and Communities Committee or the SPCB with copies of the many complaints.

Nigel Don: Can I make the point, convener—to defend the clerks—that I suspect that that is precisely what the clerk was trying to avoid? We are not a court of appeal for decisions that come to the SPSO; we never will be and we might as well not pretend that we are now. That is precisely why we do not want to know the detail of the complaints—that is not an issue for us—but we do need to worry about the process and the implications of how things are done, hence having identical petitions from a number of people who want to be involved is, I suggest, the right way forward, albeit that it is not obvious beforehand that that is the right way to do it. I want to defend the clerk's approach. We can now see why you went that way.

The Convener: Okay. That is agreed.

Institutional Child Abuse (Victims' Forum and Compensation) (PE1351)

The Convener: The next petition is PE1351, by Chris Daly and Helen Holland, on a time for all to be heard forum. I seek members' views on the petition.

Anne McLaughlin: The Scottish Government's submission says that it will respond to the report by the chair of the time for all to be heard forum by the end of March 2011. We had agreed to invite the Cabinet Secretary for Justice and the Minister for Children and Early Years to give evidence to the committee on 7 December, but I wonder whether it would do the petition more justice and be more useful to have them in front of us to give evidence after the response to the report. Given that the response is due by the end of March, I do now know whether that means that the next Public Petitions Committee would deal with it.

We could ask initial questions of the cabinet secretary and the minister in December, but a lot of their answers might be along the lines of, "We need to see the report by the chair of the forum." It might be better to get the report, get the response and then get the cabinet secretary and the minister before the committee. That would be slightly disappointing for me, because I am interested in the issue and I would like to be on that Public Petitions Committee, but it might be a better way forward for the petitioners.

The Convener: Does the committee agree with the suggestion that the petition be continued and that it would, in effect, form part of the legacy work? Are members happy with that?

Cathie Craigie: Is the report being published at the end of March? I thought that it had already been published.

The Convener: I thought that it had been published, too. My understanding is that the Government will respond to the report by the end of March. However, we could clarify that and defer our decision until the next meeting.

Cathie Craigie: The next meeting will be on 7 December, so it will be too late. If the report has been published, surely ministers will be able to read it. They might not have formally responded to it, but they will be able to make a point of reading it before they come to the committee.

Anne McLaughlin: Convener, I withdraw my suggestion.

The Convener: That is fine. Is the committee content to invite the ministers to our meeting on 7 December to discuss the petition?

Members *indicated agreement.*

The Convener: Thank you.

Saltire (Edinburgh Castle) (PE1352)

The Convener: The next petition is PE1352, by Mark Hirst, on the flying of a saltire at Edinburgh castle. Christine Grahame is here to speak to the petition.

Christine Grahame: I will make some brief comments, because the petitioner cannot be here.

I note the responses from the Government and the petitioner. There seems to be an awful lot of smoke and mirrors when we discuss saltires and flags and the castle, and it is not the smoke from the 1 o'clock gun. I understand that the first Scottish Parliament information centre briefing stated that the castle was in the ownership of Historic Scotland, whereas a quick search on the internet shows that it is in the ownership of the Scottish ministers, so there was a wee spat about that with SPICe. I do not say that there was any plot in that, but the error should not have been made.

I find some of the Government's response quite stunning. When it talks about Historic Scotland's engineer—let us forget about blowing a big hole in the volcanic rock and all the drama that that would entail—it states that the engineer and architect for the castle have "estimated" the base that would be required for a 90ft flagpole. What research did they do? It is "estimated"—that word is just flung in. How did they come to that particular figure? The response goes on to mention how much they estimate a 90ft flagpole would measure in diameter at the bottom of the pole and what it would require and so on. Who were the experts? I suggest that we need a bit more meat than just the comments that are given.

References are also made to the impact on tourism. I understand that the petitioners did a survey with tourists and the majority wanted the saltire to be flying high above Edinburgh castle. They could not understand why it was the union flag. The petition is not against the union flag or the Army. People have said that the proposal is disrespectful to the Army, but it is nothing to do with that. Why is the flag there in the first place if there is no legal requirement?

With regard to the costs, Saltire Scotland is going to pay, because it is prepared to put its hand in its pocket and not create costs for the public purse.

I am happy to provide some further information to the committee. I have just got hold of it from the petitioner. He did a lot of freedom of information requests, which, frankly, exposed a lot more than some of the correspondence has done. For example, I have in my hand a note of a phone conversation from a DH to the Ministry of Defence, which says:

"To many questions. Ed is id"—

I think that means identified—

"as f-f station"—

that means flag-flying station—