From: REDACTED
To: REDACTED
Subject: Judicial Complaints Reviewer - Cabinet Secretary response Public Petitions Committee (PE1458) - 24 October2013
Date: 02 October 2014 14:56:16
Attachments: Private Office for Justice - letter to David Stewart Convener - Public Petition PE1458 on a register of interests for members of Scotland"s judiciary - 31 October 2013.pdf
image001.jpg

From: REDACTED **On Behalf Of** Cabinet Secretary for Justice
Sent: 04 November 2013 16:22
To: REDACTED
Cc: Minister for Community Safety and Legal Affairs; DG Learning & Justice; Director of Justice; REDACTED
Communications Safer & Stronger
Subject: RE: Judicial Complaints Reviewer - draft response for Cabinet Secretary to send to David Stewart, Convener Public Petitions Committee (PE1458) - 24 October2013

Hi REDACTED,

The letter to the Public Petitions Committee has now issued. Please find a signed copy attached for your records

Many thanks,
REDACTED

REDACTED | Assistant Private Secretary (Correspondence).
Private Office of Kenny MacAskill MSP, Cabinet Secretary for Justice
St. Andrews House | Regent Road | Edinburgh | EH1 3DG| REDACTED

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From: REDACTED
Sent: 24 October 2013 15:15
To: Cabinet Secretary for Justice
Cc: Minister for Community Safety and Legal Affairs; DG Learning & Justice; Director of Justice; REDACTED
Communications Safer & Stronger
Subject: Judicial Complaints Reviewer - draft response for Cabinet Secretary to send to David Stewart, Convener Public Petitions Committee (PE1458) - 24 October2013

PS/Cabinet Secretary for Justice

Please see the attached submission and draft response, together with the incoming letter from the Convener to the Public Petitions Committee.

With apologies for the timescale; the reply has been requested by tomorrow, so this is now **urgent**.

REDACTE

REDACTED | Courts Sponsorship and Appointments Team | Tel: REDACTED
Civil Law and Legal System Division | Justice Directorate | St Andrews House | Area 2 West | Regent Road | Edinburgh | EH1 3DG

From: REDACTED **On Behalf Of** Cabinet Secretary for Justice
Sent: 26 September 2013 13:26
To: REDACTED
Subject: Private Office for Justice - letter from David Stewart Convener - Public Petition PE1458 on a register of interests for members of Scotland's judiciary - 24 September 2013

Hi REDACTE,

Please find attached a letter received from the Convener of the Public Petitions Committee. REDA replied to the previous correspondence in February so I'm assuming it's your team which will deal with this follow-up correspondence. Grateful if you would advise.

Many thanks,
REDACT

REDACTED | Assistant Private Secretary (Correspondence).
Private Office of Kenny MacAskill MSP, Cabinet Secretary for Justice
St. Andrews House | Regent Road | Edinburgh | EH1 3DG| REDACTED

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From: R @scottish.parliament.uk [mailto: REDACTED @scottish.parliament.uk]
Sent: 24 September 2013 17:46
To: Scottish Ministers
Cc: REDACTED
Subject: f.a.o. Cabinet Secretary for Justice - Public Petition PE1458 on a register of interests for members of Scotland's judiciary

f.a.o. Cabinet Secretary for Justice - Public Petition PE1458 on a register of interests for members of Scotland's judiciary

Please find attached a letter to the Cabinet Secretary for Justice from the Convener of the Public Petitions Committee in relation to the above Public Petition:

Kind regards

REDACTED
Assistant Clerk
Public Petitions Committee

From: REDACTED
To: Cabinet Secretary for Justice
Cc: Minister for Community Safety and Legal Affairs; DG Learning & Justice; Director of Justice; REDACTED Communications Safer & Stronger
Subject: Public Petitions Committee - PE1458 - response to PPC re letter from JCR - amended letter to PS/Cab Sec - June 2014
Date: 04 June 2014 12:10:00
Attachments: Cabinet Secretary response to Committee"s letter of 8 May - JCR - June 2014.docx

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REDACTED

Thank you for this. I attach amended draft letter.

REDACTED

REDACTED | Courts Sponsorship and Appointments Team | Tel: REDACTED

Civil Law and Legal System Division | Justice Directorate | St Andrews House | Area GW.15 | Regent Road | Edinburgh | EH1 3DG

From: REDACTED **On Behalf Of** Cabinet Secretary for Justice
Sent: 04 June 2014 09:59
To: REDACTED; Cabinet Secretary for Justice
Cc: Minister for Community Safety and Legal Affairs; DG Learning & Justice; Director of Justice; REDACTED; Communications Safer & Stronger
Subject: RE: Public Petitions Committee - PE1458 - response to PPC re letter from JCR - June 2014

REDACTED

Mr MacAskill wishes to add a line at the end of this letter which says that we will be happy to engage with the new JCR and discuss any thoughts or changes they feel appropriate once they have had a chance to reflect. Can you please amend and send a fresh draft for signing.

Kind Regards,

REDACTED
Private Secretary to the Cabinet Secretary for Justice
REDACTED (SAH) or REDACTED (Parliament)

REDACTED

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From: REDACTED
Sent: 03 June 2014 16:45
To: Cabinet Secretary for Justice

Cc: Minister for Community Safety and Legal Affairs; DG Learning & Justice; Director of Justice; REDACTED
; Communications Safer & Stronger
Subject: Public Petitions Committee - PE1458 - response to PPC re letter from JCR - June 2014

<< File: Public Petitions Committee - PE1458 - response to PPC re letter from JCR - June 2014.docx >> << File: Cabinet Secretary response to Committee's letter of 8 May - JCR - June 2014.docx >>

PS/Cabinet Secretary for Justice

Please see the attached submission and draft letter, due to be sent to the Public Petitions Committee by Thursday 5 June.

REDACTED | Courts Sponsorship and Appointments Team | Tel: REDACTED

Civil Law and Legal System Division | Justice Directorate | St Andrews House | Area GW.15 | Regent Road | Edinburgh | EH1 3DG

From: REDACTED
To: REDACTED
Subject: Public Petitions Committee - PE1458 - response to PPC re letter from JCR - to KM re amendment - June 2014
Date: 04 June 2014 11:11:00
Attachments: Cabinet Secretary response to Committee"s letter of 8 May - JCR - June 2014.docx

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RE

I attach a draft which takes account of Cab Sec comment below and also REDACTED comment.

Grateful for your comments. I'll perhaps have a word with RED ACT too as she was at the meeting between Cab Sec and Chic Brodie and co from the Public Petitions Committee.

REDACTED

From: REDACTED **On Behalf Of** Cabinet Secretary for Justice
Sent: 04 June 2014 09:59
To: REDACTED; Cabinet Secretary for Justice
Cc: Minister for Community Safety and Legal Affairs; DG Learning & Justice; Director of Justice; REDACTED
; Communications Safer & Stronger
Subject: RE: Public Petitions Committee - PE1458 - response to PPC re letter from JCR - June 2014

REDACTED

Mr MacAskill wishes to add a line at the end of this letter which says that we will be happy to engage with the new JCR and discuss any thoughts or changes they feel appropriate once they have had a chance to reflect. Can you please amend and send a fresh draft for signing.

Kind Regards,

REDACTED
Private Secretary to the Cabinet Secretary for Justice
x RED ACT **(SAH) or x** RED ACT **(Parliament)**

REDACTED

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From: REDACTED
Sent: 03 June 2014 16:45
To: Cabinet Secretary for Justice
Cc: Minister for Community Safety and Legal Affairs; DG Learning & Justice; Director of Justice; REDACTED

REDA ; Communications Safer & Stronger
Subject: Public Petitions Committee - PE1458 - response to PPC re letter from JCR - June 2014

<< File: Public Petitions Committee - PE1458 - response to PPC re letter from JCR - June 2014.docx >> << File: Cabinet Secretary response to Committee's letter of 8 May - JCR - June 2014.docx >>

PS/Cabinet Secretary for Justice

Please see the attached submission and draft letter, due to be sent to the Public Petitions Committee by Thursday 5 June.

REDACTED

REDACTED | Courts Sponsorship and Appointments Team | Tel: REDACTED

Civil Law and Legal System Division | Justice Directorate | St Andrews House | Area GW.15 | Regent Road | Edinburgh | EH1 3DG

From: REDACTE on behalf of Cabinet Secretary for Justice and Veterans
To: REDACTED ; Cabinet Secretary for Justice and Veterans
Cc: Minister for Community Safety; DG Education & Justice; Director of Justice; REDACTED
Communications Justice
Subject: RE: Submission - Judicial Register of Interests
Date: 29 March 2022 17:11:09
Attachments: Correspondence from Cabinet Secretary for Justice and Veterans.msg
Correspondence from Cabinet secretary for Justice and Veterans .msg

---

Good afternoon REDA CTED

Please see attached for your records.

Kind regards
REDA CTED

REDACTED – Office of Cabinet Secretary for Justice & Veterans – Keith Brown
Scottish Government | St Andrew's House, Regent Road, Edinburgh, EH1 3DG | Email: cabsecjv@gov.scot

The Cabinet Secretary's preferences can be found here

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---

From: REDACTED
Sent: 29 March 2022 16:17
To: Cabinet Secretary for Justice and Veterans <CabSecJV@gov.scot>
Cc: Minister for Community Safety <MinisterCS@gov.scot>; DG Education & Justice <dgej@gov.scot>; Director of Justice <DirectorofJustice@gov.scot>; REDACTED
; Communications Justice <CommunicationsJustice@gov.scot>
Subject: RE: Submission - Judicial Register of Interests

Hi REDA CTED ,

Apologies for the typo, new letters for the Cab Sec to the Lord President and the Convener of the Justice Committee using the Gaelic letterhead are attached.

Cheers

From: REDACTED **On Behalf Of** Cabinet Secretary for Justice and Veterans
Sent: 29 March 2022 10:58
To: REDACTED Cabinet Secretary for Justice and Veterans <CabSecJV@gov.scot>
Cc: Minister for Community Safety <MinisterCS@gov.scot>; DG Education & Justice <dgej@gov.scot>; Director of Justice <DirectorofJustice@gov.scot>; REDACTED ; Communications Justice <CommunicationsJustice@gov.scot>
Subject: RE: Submission - Judicial Register of Interests

Good morning REDACTED

Thanks, Mr Brown is content, but has commented that there is a typo though, in last line of the letter to the LP, should be 'independence',

Would you be able to make this change and also put the letters on the correct template for Cabinet Secretary for Justice and Veterans

Many thanks
REDACTED

REDACTED – Office of Cabinet Secretary for Justice & Veterans – Keith Brown Scottish Government | St Andrew's House, Regent Road, Edinburgh, EH1 3DG | Email: cabsecjv@gov.scot

The Cabinet Secretary's preferences can be found here

All e-mails and attachments sent by a Ministerial Private Office to any other official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments

Scottish Ministers, Special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

From: REDACTED
Sent: 24 March 2022 18:29
To: Cabinet Secretary for Justice and Veterans <CabSecJV@gov.scot>

Cc: Minister for Community Safety <MinisterCS@gov.scot>; DG Education & Justice <dgej@gov.scot>; Director of Justice <DirectorofJustice@gov.scot>; REDACTED ; Communications Justice <CommunicationsJustice@gov.scot>

Subject: Submission - Judicial Register of Interests

PS/Cabinet Secretary

Please find attached a routine submission providing an update on work relating to the introduction of a judicial register of interest following a letter enquiring about this work from the Criminal Justice Committee. I have also attached for the Cabinet Secretary's consideration:

- a draft letter of response to the Criminal Justice Committee,
- a draft letter of reply to be issued from officials to the original petitioner for a judicial register at the Scottish Parliament (Peter Cherbi), and,
- a letter to the Lord President to invite him to discuss the matter at the Cab Sec's next regular meeting.

Thanks

REDACTED

REDACTED | Head of Courts and Tribunals| Justice Directorate | The Scottish Government | GW.15 | St Andrew's House | Edinburgh | EH1 3DG |T: REDACTED |
REDACTED

From: REDACTED
To: REDACTED
Subject: FW: CAB SEC CLEARANCE - Register of interest for judges - Daily Record
Date: 26 April 2022 16:23:06

REDACTED

From: REDACTED
Sent: 14 June 2021 16:36
To: Cabinet Secretary for Justice and Veterans <CabSecJV@gov.scot>
Cc: Communications Justice <CommunicationsJustice@gov.scot>; REDACTED
Subject: CAB SEC CLEARANCE - Register of interest for judges - Daily Record

Private office,

We've been approached by the Daily Record seeking lines around the general issue of a register of interest for judges and why it is an important reform.

REDACTED

A Scottish Government spokesperson said:

"Introducing a register of interests for members of the judiciary will increase transparency and trust in the justice system. The Scottish Government will now begin work to engage with stakeholders to consider how best to bring forward this justice reform."

Many thanks
REDACTED

REDACTED | Media Manager
Communications Justice and Constitution / External Affairs and Culture
Scottish Government, St Andrew's House
e: REDACTED
m: REDACTED

From: REDACTED
Sent: 14 June 2021 10:40

To: REDACTED
Subject: for the daily record tmrw

Hi

I am writing about the fact the SNP Government is committed to a register of interest for judges (see the written answer below).

Could I get some words from the new Justice Secretary on the general issue and why it is an important reform?

My deadline is 6pm.

RED ACT

Question S6W-00180: Monica Lennon, Central Scotland, Scottish Labour, Date Lodged: 24/05/2021
To ask the Scottish Government when it will introduce a register of interests for the judiciary.

Answered by Keith Brown (07/06/2021):
It was a manifesto commitment of the SNP to create a register of interests for members of the judiciary to improve transparency and trust in the justice system.
Now that the new government is in place, we will start looking at ways this register can be introduced and take forward the work needed to achieve this manifesto commitment.

Current Status: Answered by Keith Brown on 07/06/2021

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From: REDACTED
10 April 2014

Cabinet Secretary for Justice

PETITION PE1458 – REGISTER OF INTERESTS FOR MEMBERS OF SCOTLAND'S JUDICIARY

Purpose

1. To seek clearance of a letter to the Convenor of the Public Petitions Committee responding to his letter of 6 March 2014.

Priority

2. **Routine.** However, the response is overdue as the Committee has asked for a response by 1 April 2014.

Background

3. Petition PE1458 calls on the Scottish Parliament to urge the Scottish Government to create a Register of Pecuniary Interests of Judges Bill (as is currently being considered in New Zealand's Parliament) or amend present legislation to require all members of the Judiciary in Scotland to submit their interests and hospitality received to a publicly available Register of Interests. The Scottish Government responded to the issues raised in the petition on 11 February 2013. It concluded that the Scottish Government does not believe that there is currently any evidence to suggest that the existing safeguards are not effective and does not therefore consider that a register such as that advocated in the Petition is necessary.

4. The Judicial Complaints Reviewer gave evidence to the Public Petitions Committee on 17 September 2013 and subsequently wrote to the Committee by way of follow-up on 9 October 2013 and 28 February 2014. Her evidence was to the effect that a Register of Interests would increase transparency and public trust in the judiciary. She also raised issues in relation to her powers and the resources available to her. You responded on 31 October 2013 to advise that it is premature to review the powers of the JCR and that the current remuneration package is sufficient to enable the JCR to adequately perform her role.

5. The attached draft response to the Committee states that you do not consider it necessary to establish such a register as there are sufficient safeguards in place to ensure the impartiality of the judiciary. The current safeguards are the judicial oath, the Statement of Principles of Judicial Ethics for the Scottish Judiciary and the Rules made under the Judiciary and Courts (Scotland) Act 2008 that relate to investigations into complaints about judicial conduct.

Recommendation

6. **That you note this advice and agree to the attached letter being sent to the Convenor of the Public Petitions Committee.**

REDACTED **| Civil Law and Legal System | Justice Directorate**
10 April 2014

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Minister for Community Safety and Legal Affairs			X		

DG Learning & Justice
Director of Justice
REDACTED
REDACTED
REDACTED, Special Adviser
Comms Safer & Stronger

From: REDACTED
Civil Law and Legal System
25 June 2015

Minister for Community Safety and Legal Affairs

PUBLIC PETITIONS COMMITTEE – PE1458 REGISTER OF JUDICIAL INTERESTS

Purpose

1. To up-date you on evidence to the Public Petitions Committee (PPC) from Gillian Thompson, Judicial Complaints Reviewer (JCR), in relation to Petition PE1458 on a Register of Judicial Interests.

Timing

2. Routine.

Background

3. The JCR, Gillian Thompson, was invited to give oral evidence to the PPC in relation to Petition PE1458 on a Register of Judicial Interests at its meeting on Tuesday 23 June 2015. This followed evidence given to the PPC by the previous JCR on 17 September 2013 and evidence that you gave to the PPC on 9 December 2014.

Key Issues

4. The key issues discussed were:

Register of Judicial Interests – the JCR expressed her support for a register of judicial interests. This is consistent with her position as stated in her letter of 15 January 2015 to the PPC. She supports her predecessor's position and does not see the arguments against such a register. The reasons she gave are that she considers that people in public service should provide information within reason, including financial and pecuniary information - MSPs are required to do – and that members of the public should be confident that they are obtaining even handed treatment in court; and that no-one is hiding anything.

The JCR acknowledged that such a register would need to be maintained and that consideration would need to be given to the detail of how it would operate, including the processes for declaring personal relationships. When asked about the potential for such information to be abused by hostile litigants, the JCR said it is inevitable that some issues might arise that would need to be managed.

Role of the JCR – Gillian Thompson said that it is not for her to review the JCR role but acknowledged that the role is a very narrow one in that it consists of simply looking at whether the conduct complaint rules have been followed. She considers that the time is probably right, after 4 years, for a review to see whether the post of JCR is meeting its requirements or indeed if a JCR is the right process. When you

met the JCR in early February 2015, you asked her about the role and remit of the JCR to date. You said that you would be happy to discuss this further once Gillian Thompson (appointed in September 2014) had been in post for longer.

Number of cases/days worked – The JCR said that she had inherited a backlog of 14 cases which were cleared by March 2015. Since her appointment, she has received 22 new requests for review, of which 17 are outstanding. She has also received 7 enquiries. The current waiting time for a response is around 4/5 months. The JCR explained that her number of contracted days is 3 days per month. This has been increased to 4 days over recent months and the Scottish Government has recently agreed to increase her days to 6 days per month until the end of August. She said that this increase should enable her to substantially move through the back-log of cases. She explained that a reasonably complex case takes 1-1½ days to process. The JCR was asked whether she should receive more help and work more days. Her view was that any review should consider these issues.

Current Complaints Process – The JCR said that the current complaints process is fit for purpose, and that the process had improved considerably in her predecessor's time. The Lord President published up-dated complaint rules on 1 April 2015 following a consultation in late 2013. She considers that there had been some improvements, including improvements to the guidance leaflet, and that the new rules take account of some issues raised by the previous JCR. I attach at the Annex a note about the new complaint rules.

Next Steps

5. The PPC agreed to invite the new Lord President to give evidence on a Register for Judicial Interests and to write to the Scottish Government to propose that a review of the JCR role is taken forward.

Conclusion

6. To invite the Minister to note the issues covered by the JCR in her evidence to the PPC and that the Scottish Government will be asked to carry out a review of the JCR's role.

REDACTED, Civil Law and Legal System Division, Ext REDACTED
25 June 2015

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for Justice			✓		
DG Learning and Justice REDACTED	REDACTED Comms Safer and Stronger				

ANNEX

NEW COMPLAINT RULES

Background

The post of Judicial Complaints Reviewer was created by the Judiciary and Courts (Scotland) Act 2008. The Act retains the independence of the Lord President as head of the judiciary and gives him the power to make rules for investigating and determining complaints made about the conduct of the judiciary.

The Lord President made the first rules governing the process for handling complaints against the judiciary in 2011. The ***Complaints About the Judiciary (Scotland) Rules*** came into force in February 2011. The Rules provide that complaints about the personal conduct of the judicial office holder should be sent to the Judicial Office for Scotland (part of the Scottish Court Service created in 2010 to provide support services for the Lord President) who will consider any complaint about the personal conduct of judicial office holders, but cannot deal with complaints about judicial decisions or the way in which cases are handled. Following consideration of a conduct complaint by the Judicial Office, the 2008 Act further provides a right for either the complainant or the judicial office holder who has been the subject of a complaint to refer the matter to the JCR to review the handling of the case to ensure that the set procedures have been followed.

Consultation / Response

The Lord President consulted on draft Rules in autumn 2013. There were five responses to the consultation (Sheriffs Principal, Sheriffs Association, Faculty of Advocates, former JCR and a private individual). The former JCR responded to the consultation by carrying out her own mini-consultation and drawing heavily on comments obtained from complainants.

A consultation response was published on 1 April together with the new complaint rules and guidance.

Publication of new Complaints about the Judiciary Rules 2015

New Complaint Rules and accompanying guidance were published on 1 April 2015. The aim of the Rules is to simplify and streamline the complaints process whilst also making it clear what conduct issues can properly be investigated.

Key changes are:

- To the procedure of how to make a complaint, including what are the requirements of a valid complaint. A pro-forma document for making a complaint is provided which is accessible on the Judiciary for Scotland website.

- The wording in the new Rules has been simplified. The guidance document provides examples of the types of matters that can and those that cannot be investigated such as a court judgment or sentencing decision.

- The rule about allegations of criminal conduct has been revised so that any complaint containing an allegation of criminal conduct under these Rules will be suspended until a decision or conclusion of any criminal proceedings.

- The rule about withdrawal of a complaint has been amended to provide 28 days for a complainer to respond to correspondence from the judicial office or the nominated judge. If no response is received within this timescale the complaint may be deemed to have been withdrawn but final determination will be made by the disciplinary judge or the nominated judge.

PUBLIC PETITIONS COMMITTEE DEBATE: REGISTER OF INTERESTS FOR THE JUDICIARY

THURSDAY 9 OCTOBER – 1530-1700

S4M-11078 David Stewart on behalf of the Public Petitions Committee: Petition PE1458: Register of Interests for Members of Scotland's Judiciary—That the Parliament notes Petition PE1458, in the name of Peter Cherbi, on the issue of a register of interests for members of Scotland's judiciary; welcomes the petitioner's efforts to highlight what it considers to be an important matter, and commends the issues raised to the Scottish Government for further consideration.

PUBLIC PETITIONS COMMITTEE DEBATE: REGISTER OF INTERESTS FOR THE JUDICIARY

THURSDAY 9 OCTOBER – 1530-1700

BACKGROUND

Peter Cherbi lodged Petition Number PE01458 with the Public Petitions Committee.

The subject is **Register of Interests for members of Scotland's judiciary**. He calls on the Parliament to urge the Scottish Government to create a Register of Pecuniary Interests of Judges Bill (as is currently being considered in New Zealand's Parliament) or amend present legislation to require all members of the Judiciary in Scotland to submit their interest and hospitality received to a publicly available Register of Interests.

Existing safeguards to ensure the judicial impartiality is maintained

The Judicial Oath which requires judges to do right to all manner of people without fear or favour, affection or ill-will.

The Statement of Principles of Judicial Ethics for the Scottish judiciary was issued in 2010 by the Judicial Office for Scotland as guidance for all holders of judicial office in Scotland. Paragraph 5 discussed financial conflicts of interest in the context of judicial impartiality and states that "*Plainly it is not acceptable for a judge to adjudicate upon any matter in which he, or she, or any members of his or her family has a pecuniary interest…..*"

The Judiciary and Courts (Scotland) Act 2008 contains provisions in sections 28 and 35 to regulate and investigate the conduct of judicial office holders. The Lord President's Complaints about the Judiciary (Scotland) Rules came into force in 2011.

Exchanges between the Public Petitions Committee (PPC) and the Scottish Government

There have been four sets of exchanges between the PPC and the SG in relation to this petition. Copies of the SG responses are attached and cover the following:

11 February 2013 – SG set out its views that there are sufficient safeguards in place to ensure the impartiality of the judiciary in Scotland. A register of interests could be established administratively and without legislative provision. That would be a matter for the Lord President, as head of the judiciary in Scotland. However, the SG does not consider there is currently any evidence to suggest that the existing safeguards are not effective and does not therefore consider that a register of judicial interests is necessary.

31 October 2013 – Further to oral and written evidence given to the PPC by the Judicial Complaints Reviewer (JCR), the Cabinet Secretary said that, given the relatively short time the post of the JCR had been in existence and the modest number of reviews that have been carried out, it would be premature to review the

powers of the role. He said he was not persuaded of the need for any change to the role or its function at this moment in time.

22 April 2014 – Further to written evidence given to the PPC by the JCR, the Cabinet Secretary noted that the JCR considers that there is merit in a register for interests for the judiciary. However, he does not think it necessary to establish such a register. He did not consider that the case had been made that the existing safeguards were not effective.

4 June 2014 – the Cabinet Secretary was asked to comment on written evidence from the JCR to the PPC. He responded that it would be for the Lord President to establish such a register of interests in his capacity as head of the judiciary in Scotland. However, the Cabinet Secretary does not consider there is any evidence to suggest that the existing safeguards are not effective and does not therefore consider that such a register is necessary.

Lord President's view of a Register of Pecuniary Interests (copy of his written evidence of 5 February 2013 attached)

The Lord President takes the view that the existing safeguards are sufficient to ensure that judicial impartiality is maintained and there is no need for the further measure of a Register of Judicial Pecuniary Interests. The Lord President also points out that the judge's duty of disclosure is more far-reaching than listing particular pecuniary interests. Material relationships should be disclosed. The Scottish Court Service has set up, from 1 April 2014, a register of judicial recusals which provide the reason why the judge or sheriff formally recuses him or herself from hearing a case, for example where they are personally known to the witness.

Position in England and Wales

There is no general register of judges' pecuniary interests in England and Wales.

Council of Europe Group of States against Corruption (GRECO)

GRECO considered the need for a Judicial Register of interests as part of its Fourth Evaluation Round Report on the United Kingdom and said "*The GET wishes to note that nothing emerged during the current evaluation which could indicate that there is any element of corruption in relation to judges, nor is there evidence of judicial decisions being influenced in an inappropriate manner. It would therefore appear that what was said to the First Evaluation Round Report with respect to the absence of a system for formal registration of interests of judges is still valid. GRECO did not recommend the introduction of an asset declaration system at that time and the GET found no change of circumstance that would require such a recommendation at this time*."

Note by the Clerk - Public Petitions Committee

9th Meeting, 2014 (Session 4), Tuesday 6 May 2014

PE1458 on a register of interests for members of Scotland's judiciary

PE1458 – Lodged 8 December 2012

Petition by Peter Cherbi calling on the Scottish Parliament to urge the Scottish Government to create a Register of Pecuniary Interests of Judges Bill (as is currently being considered in New Zealand's Parliament) or amend present legislation to require all members of the Judiciary in Scotland to submit their interests & hospitality received to a publicly available Register of Interests.

Link to petition webpage

Purpose

1. The Committee last considered this petition on 4 March 2014 and agreed to approach the Conveners Group to seek debate time in the Chamber. The Committee also agreed to write to Lord Gill on the issue about extending the existing record of declarations of pecuniary interests and to the Scottish Government seeking its views on the evidence received by the Committee to date. Responses from Lord Gill and the Scottish Government have been received. The Committee is invited to agree what action it wishes to take in respect of the petition.

Background

2. The petition appears to be at least partly motivated by the New Zealand Register of Pecuniary Interests of Judges Bill ("the New Zealand Bill"), which is a Member's Bill introduced by a member of the New Zealand Green Party proposing a mandatory register of New Zealand judges' financial interests. This Bill is currently being considered by the Justice and Electoral Committee of the New Zealand Parliament with the present deadline for a report on its findings on this Bill being 25 February 2014.

Committee Consideration

3. The Committee has received evidence from a number of interested parties. In its response, the Law Society of Scotland advised that it was not aware of any evidence suggesting that the current rules were not working. The Scottish Government advised that a register of interests could be established administratively but that it would be a matter for the Lord President.

4. The Lord President drew the Committee's attention to the fourth evaluation round report of the Council of Europe Group of States against Corruption (GRECO). Regarding registers of judicial interests, it states (paragraph 133) that the findings of the first evaluation report are still valid and therefore makes no

recommendation.[1] Lord Gill declined two invitations to give oral evidence to the Committee and advised that, since April 2010, there had been no case in which a judge has been found guilty of misconduct for a failure to recuse.

5. Following the Committee meeting on 16 April 2013, the Judicial Complaints Reviewer (JCR) wrote to the Committee stating that she supported the petitioner's call for the judiciary to be required to complete a register of interests, including non-financial interests. The JCR gave evidence to the Committee on 17 September 2013.

6. The Scottish Court Service did not express a view on the subject matter of the petition but did highlight that it has maintained a register of interests for its staff for many years, which "has not posed any difficulties". The Crown Office and Procurator Fiscal Service stated that it did not intend to respond to the issues raised in the petition.

7. In a submission to the Committee, the petitioner highlighted the declarations of interests by the Lord President and other members of the judiciary in their roles as members of the board of the Scottish Court Service that appear in the SCS annual report.

8. The Committee considered the petition again on 26 November 2013 following which an informal meeting between the Convener, Deputy Convener and the Lord President took place. At that meeting the Lord President undertook to write to the Committee about making publicly available information on cases in which a judge or sheriff formally recuses him or herself. It was subsequently confirmed that from 1 April 2014, that information would be available including the reason for recusal.

9. The Conveners Group has agreed to the Committee's request for debate time in the chamber and a date will be identified in due course. Responses from Lord Gill (letter of 1 April 2014), the Scottish Government (22 April 2014) and submissions from the Judicial Complaints Reviewer (23 April 2014) and the petitioner (24 and 28 April 2014) have been received and are enclosed..

Action

10. The Committee is invited to consider what action it wishes to take in respect of the petition. It may be that the Committee would merely wish to await time for a Chamber debate to be agreed.

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[1] Paragraph 133 refers back to Paragraph 62 of the first evaluation report which states: United Kingdom judges are not required formally to register interests. However, all interlocutors of the GET were in agreement that the historical record demonstrated that judicial corruption was virtually unheard of, except on the most rare occasion and then only at the lowest level of a lay magistrate. Similarly, none of the persons interviewed considered that there existed a significant problem of political influence upon judicial decisions.

JUDICIAL COMPLAINTS REVIEWER

The previous Judicial Complaints Reviewer gave oral evidence to the Public Petitions Committee on 17 September 2013. She also provided written evidence dated 17 May and 9 October 2013 and 28 February and 23 April 2014. She considers that a register of judicial interests would increase transparency and public trust in the judiciary.

She has said in her oral or written evidence to the PPC

"***The public trend is toward more and more openness and accessibility. Accountability has to go hand in hand with judicial independence. Accountability is really about saying 'these are what our interests are.'"***

"Greater transparency enhances the credibility of any group of people, whether they be members of boards, politicians or the judiciary".

"a register of interests is a way of demonstrating that a judicial office holder is impartial and has no vested interest in a case – financially, through family connections, club or society membership or in any other way."

Following the JCR's call for greater transparency and accountability, the Scottish Court Service set up a system to collect data about the judiciary recusing themselves from cases where there is a conflict of interest. The fact of recusal and the reason for it is published on the Judiciary website.

In her evidence to the PPC on 17 September 2013, the JCR also raised issues in relation to her powers and the resources available to her. The Cabinet Secretary for Justice said (in written evidence to the PPC on 31 October 2013) that it is premature to review the powers of the JCR and that the current remuneration package is sufficient to enable the JCR to adequately perform her role.

Background - Role of the JCR

The Judiciary and Courts (Scotland) Act 2008 makes provision for a scheme to be established to handle complaints about the conduct of the judiciary. The mechanism is set out, in rules made by the Lord President (Complaints about the Judiciary (Scotland) Rules which provide that complaints about the personal conduct of a judicial office holder should be sent to the Judicial Office. The 2008 Act further provides a right for either the complainer or the judicial office holder who has been the subject of a complaint to refer the matter to the JCR to review the handling of the case to ensure that the set procedures have been followed. The JCR has no power to consider either the merits of any complaint or the disposal of the complaint: the role is limited to considering whether the appropriate procedures have been followed.

Cabinet Secretary for Justice

MEETING WITH LORD PRESIDENT

Who	Lord President
Why	Regular catch up meeting
Where	Lord President's Chambers Parliament House
When	9 January 2020 10:00 -11:00
Supporting Officials	REDACTED REDACTED
Briefing	Briefing for agenda items attached.
Background	The Cabinet Secretary has a regular catch-up meeting with the Lord President

Copy to:
Minister for Community Safety
DG Education, Communities and Justice
REDACTED

AGENDA

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

7. AOB - Judicial Register of Interests

REDACTED	
REDACTED	REDACTED

ITEM 7	**Judicial Register of Interests**
Briefing	The Lord President's officials have indicated that they expect the Lord President to raise this as AOB. If not, it would be useful if you can raise the issue with him. <u>Background</u> A petition in favour of introducing a Register of Pecuniary Interests of Members of Scotland's Judiciary was lodged by Peter Cherbi in 2012. This called on the Scottish Parliament to urge the SG to create such a register (similar to what was being proposed in New Zealand at the time. This was subsequently rejected by the NZ Parliament). The Public Petitions Committee (PPC) considered the petition for several years before referring it to the Justice Committee in 2018. The PPC also wrote to SG and the Lord President at that time setting out that the PPC considered that a register should be introduced. The Justice Committee wrote to you in March 2019 to see if you agreed with your predecessors that a register was not necessary. You wrote back confirming this was correct. The Justice Committee held a further evidence session in November 2019 with written evidence form the petitioner and oral evidence from one of the previous Judicial Complaints Reviewers (Moi Ali). Following this, the convener has written to you setting out that the Committee supports the principle behind the petition and requesting you review the evidence they heard in November and previously and to then set out in detail why you don't think a register is necessary. The LP was also written to and invited to give oral evidence in early 2020. His views were also sought on what would be required to establish a register in terms of primary legislation or whether this was within his powers as Lord President. **What is in place currently** The judiciary are currently bound by: • The Judicial Oath, which sets the standards by which they must abide by. • The Statement of Principles of Judicial Ethics • The Judicial Complaints system (the rules of which are set by the Lord President)

- And, following a discussion between the PPC Convener and the previous Lord President, a register of judicial recusals.

Arguments in favour

Petitioner argues that it would increase transparency, accountability and trust in judicial office holders.
Moi Ali and Gillian Thompson (former JCRs) are in favour of any register being extended to family relationships/friendships, membership of organisations, gifts and hospitality and commercial interests). The current JCR has expressed no view.
The PPC's consideration was based on an understanding of the expectations that apply to all holders of public office, whether elected or unelected, in relation to disclosure of financial interests. Such disclosures not only allow for demonstration that decision-making is not influenced by personal interests but also prevent the perception of the influence of interests on decision-making. The PPC were not convinced that the introduction of a register is unworkable.

Arguments against

Both the current and former LPs are against.
Their reasons:

- There are sufficient safeguards in place at the moment
- The potential for unintended consequences of the register
- The impracticality of a register
- The petition, not in fact, achieving its aim.

REDACTED

REDACTED