

PE1458/QQ

Response to letter from First Minister dated 30 March 2015

The First Minister contends declaring information such as memberships of organisations would make a register of judicial interests unworkable.

It is already a matter of public record sheriffs have declared memberships of organisations such as a membership of a wildlife protection charity. A Sheriff recused herself from hearing a case after being asked to recuse by legal agents acting for an accused person. The recusal was published on the Judiciary of Scotland website here <http://www.scotland-judiciary.org.uk/68/0/Judicial-Recusals>

The information of the Sheriff's membership of the RSPB only came to the attention of legal agents when the sheriff raised it. This case was reported in the Herald newspaper <http://www.heraldscotland.com/news/crime-courts/recused-cases-where-judges-or-sheriffs-stepped-down-because-of-conflicts-of-intere.1418058763>

If a register of interests for judges were available at the time of this case, the sheriff's membership would have been known to all parties, and court delays which ensued in the trial as a result of the recusal could have been avoided.

It is also a matter of record the Lord President and other judicial figures declare memberships, trusteeships and other affiliations in their declarations as members of the Scottish Court Service Board, published here https://www.scotcourts.gov.uk/docs/default-source/SCS-Annual-Report/annual_report_5_nov_14.pdf

With these examples it is clear a register of interests containing memberships of organisations could be implemented for the wider judiciary.

Regarding the First Minister's reference to the meeting which took place between Mr Wheelhouse and the Lord President in February, I suggest members ask the Minister to provide a full account of his discussions with the Lord President in a public evidence session so it can be placed on record.

The First Minister restates Lord Gill's position the judiciary is different from that of MSPs and others who hold public office.

The public expect transparency should be applied to all those who hold public office. There is a reasonable expectation even greater transparency should be applied to those who hold such enormous power and influence as the judiciary hold over public life.

The First Minister restates Lord Gill's position on "aggressive media" and that "the judiciary cannot publicly defend themselves."

During the recent Commonwealth Law Conference held in Glasgow, Lord Gill recently gave a speech, at the Commonwealth Law Conference held in Glasgow :
<http://www.scotland-judiciary.org.uk/Upload/Documents/LPCommonwealthLawConferencekeynotespeech13April2015.pdf>

The Lord President described transparency and reform as "insidious", using the following words:

"The threats to judicial independence do not always come with a knock on the door in the middle of the night. In a society that prides itself on the independence of its judiciary, the threat may come in insidious ways, even at the hands of well-meaning governments and legislators, in the name of efficiency and, ironically, in the name of transparency."

Everyone supports an independent judiciary as a necessity for democracy. Transparency and a register of judicial interests can only enhance the judiciary and public trust in judicial figures.

Peter Cherbi, Petitioner PE1458