



**Northern Ireland
Assembly**

COMMITTEE FOR JUSTICE

MINUTES OF PROCEEDINGS

TUESDAY 25 MARCH 2014
Senate Chamber, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Dr Kathryn Aiken (Assembly Clerk)
Mrs Sinead Kelly (Assistant Assembly Clerk)
Miss Leanne Johnston (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

The meeting commenced at 12.47 p.m. in public session.

1. Apologies

None.

2. Oral evidence in relation to the On the Runs Administrative Scheme and Letters

Mr Nick Perry, Permanent Secretary, Department of Justice joined the meeting at 12.47 p.m.

The Permanent Secretary made some opening remarks.

A detailed question and answer session followed covering issues including: the nature of the previous role held by Nick Perry in the Northern Ireland Office (NIO); what responsibility he had in relation to the On the Runs Administrative Scheme and Letters during his role in the NIO;

12.59 p.m. Mr Jim Wells joined the meeting.

whether he was aware of whether the On the Runs Scheme had ended before the point of devolution; whether he was aware at any point that the On the Runs Scheme had ended; what advice he took in order to decide that the On the Runs Scheme was not a devolved matter; the legislation which existed in order that public inquiries would remain a reserved matter and whether there was any similar legislation in relation to the On the Runs Scheme; whether other officials who transferred from the NIO to the devolved Department of Justice were aware of the One the Runs Scheme; whether as Permanent Secretary he made any enquiries as to the status of the On the Runs Scheme; on whose advice the Permanent Secretary relied in determining that the On the Runs Scheme was not a devolved matter; whether he ever requested any legal advice provided to direct rule Ministers in relation to the On the Runs Scheme; what legal advice the Permanent Secretary has taken since the On the Runs issue became public regarding whether it is a devolved matter; whether the Minister of Justice or his Special Advisor ever enquired about the issue of On the Runs; whether the Permanent Secretary has ever discussed the On the Runs Issue with the PSNI, the Public Prosecution Service, the Policing Board, or the Attorney General; whether the Permanent Secretary has had any involvement with the On the Runs Scheme since the point of devolution; the relevance of the Executive's 'Procedural Guidance – Access to Papers of a Former Minister';

1.14 p.m. Mr Jim Wells joined the meeting

whether the Permanent Secretary consulted the Executive's Procedural Guidance in drawing up the first-day brief for the Minister of Justice; whether arrests, charges and prosecutions are generally devolved matters which are only reserved if they relate to matters of national security; whether as the chief accounting officer of the Department of Justice the Permanent Secretary had a duty to enquire about potential costs relating to policing; whether the Permanent Secretary is aware that the Prison Service had knowledge of the On the Runs Scheme; the questions asked of the Attorney General in the House of Commons in relation to the On the Runs Scheme and the Attorney General's response which referred to the questions as 'pertinent'; whether the Permanent Secretary has sought advice from the Head of the Civil Service in relation to the On the Runs Scheme; whether the Permanent Secretary had any discussion with the Minister of Justice when John Downey was arrested on 19 May 2013; whether the Permanent Secretary should have regarded the On the Runs issue as unique and should have discussed it with the Minister of Justice; whether the Permanent Secretary had knowledge of Operation Rapid;

1.22 p.m. Mr Alban Maginness left the meeting

whether the perceived inaction of the Permanent Secretary has undermined the Minister of Justice; whether following the withdrawal of the Northern Ireland (Offences) Bill, Nick Perry in his former NIO role, had a duty to warn Direct Rule Ministers that the On the Runs Scheme could undermine the parliamentary structure; whether the Permanent Secretary believed the On the Runs Scheme breached national security; whether the Permanent Secretary is aware of any letters being sent to any Members of the NI Assembly; whether the Permanent Secretary was ever aware of any specific names or numbers in relation to the On the Runs Scheme; whether the On the Runs Scheme arose during the sweeping-up exercise at the point of devolution; whether the Permanent Secretary was aware of any amnesty, immunity or implied immunity for any members of the security forces or agents of the state; whether the Minister of Justice or his Special Advisor have sought any documents or papers in relation to the On the Runs Scheme since it became public; whether the Westminster Committee inquiry and the judge-led

inquiry into the On the Runs Scheme will have access to documents and papers; whether it would be prudent for the Minister of Justice to engage in a scoping exercise to ensure there are no further issues which may emerge; whether Nick Perry was involved in planning for the transfer of powers upon devolution; whether he was aware of what matters were being transferred upon devolution; whether the Permanent Secretary sought any briefing from the PSNI or the Policing Board before appearing before the Justice Committee; the perceived change of stance by the Secretary of State regarding whether the On the Runs Scheme was devolved; whether the Permanent Secretary was involved in meeting the Secretary of State regarding the status of the On the Runs Scheme; whether the Permanent Secretary has ever been in a position where he was in possession of information which he could not disclose to a Minister due to the Civil Service Code of Conduct but which could have prevented the Minister providing mis-information to Parliament; whether the Permanent Secretary has had any contact with the Attorney General for England and Wales regarding the On the Runs Scheme;

1.38 p.m. Mr Sean Lynch left the meeting

whether the Permanent Secretary was aware of the questions asked of Peter Hain in Parliament in 2006/7; whether the Permanent Secretary had any sense of whether the On the Runs Scheme was classified or whether there was a general awareness of the existence of the Scheme;

1.48 p.m. Mr Tim Elliott joined the meeting

whether the Permanent Secretary was ever aware of a situation where a Secretary of State misled Parliament;

1.50 p.m. Ms Rosaleen McCorley left the meeting

whether the withholding of information from a Minister, which then led to the Minister misleading Parliament, would constitute a disciplinary matter which should be referred to the Head of the Civil Service; why the Public Prosecution Service indicated that they wished to deal with the Attorney General for England and Wales in relation to the On the Runs issue rather than the NIO; on what issues the Minister of Justice was seeking legal advice in relation to the On the Runs Scheme; whether the Minister of Justice consulted the Permanent Secretary regarding seeking legal advice; whether it would be normal convention for a Minister to consult their Permanent Secretary before commissioning legal advice; from whom the Minister of Justice has sought legal advice; whether the Minister of Justice has sought the views of the Attorney General for Northern Ireland; whether the PSNI and the Public Prosecution Service generally deal with people who go 'on the run'; whether the Permanent Secretary believes that it is necessary to seek legal advice on whether the On the Runs Scheme is a devolved matter; whether there is a question over who is legally competent to deal with On the Runs; whether legal advice will be sought in relation to the letters which issued after devolution; the relationship between the Minister of Justice and his Permanent Secretary following the emergence of the On the Runs Scheme; whether the Permanent Secretary sought legal advice before appearing before the Justice Committee; whether the principles set out in the NI Executive's Procedural Guidance are the same principles which apply across the UK; whether it would have been appropriate for the Permanent Secretary or any other officials invited to appear before the Justice Committee to postpone on the basis that they are awaiting the outcome of the judge-led inquiry into the On the Runs issue.

The Chairman stated that Members would review the Hansard of the meeting and may wish to hear from Nick Perry again at a future meeting.

The Chairman thanked Nick Perry and he left the meeting.

3. Date, Time and Place of next meeting

The next meeting will take place on Thursday 27 March 2014 at 2.00 p.m. in Room 30, Parliament Buildings.

The meeting was adjourned at 2.10 p.m.

Mr Paul Givan MLA
Chairman, Committee for Justice