

Political Affairs Digest

A daily summary of political events affecting the Jewish Community

Scottish Council of Jewish Communities

SCoJeC

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Scottish Parliament Oral Answers

Flags (Criminal Offences)

Sandra White (SNP) [S5O-02440]: To ask the Scottish Government what discussions it has had with Police Scotland regarding the reported list of flags that it could be a criminal offence to fly.

The Cabinet Secretary for Justice (Humza Yousaf): This is an operational matter for Police Scotland, which has confirmed that the list of flags was produced to assist officers in differentiating between legitimate flags and those which include illegal images, such as the symbols of proscribed terrorist organisations. Police Scotland has clearly confirmed that, in the absence of other associated criminal behaviour, it is not illegal to fly any national flag in its unaltered state.

Sandra White: The cabinet secretary will be aware that some of the flags on the list were the national flag of Ireland, the Vatican City, Israel and Palestine. Perhaps the cabinet secretary could speak to Police Scotland and provide details of who created the list and the rationale behind it. The document that I received says that if the flags are “flown or displayed in a provocative manner” — would like to know who defines “provocative”—the people doing so would be subject to section 38 of the Criminal Justice and Licensing (Scotland) Act 2010.

Humza Yousaf: I will try to give the member some reassurance. I have the guidance in front of me and the flags that she asked about come under the heading of “Flags which do not in themselves constitute criminality”. The document and the list of flags were prepared by Police Scotland and it is for Police Scotland to determine.

The member asked who is to judge what is provocative. It is very much within the law and statute. She will recognise that, for example, any threatening gestures and so on could lead to some criminal offences under the appropriate legislation. If Sandra White has any further questions, I am more than happy to provide her with details of who in Police Scotland she can correspond with directly.

James Kelly (Labour): It is simply unacceptable that flags that demonstrate religious and political beliefs should be restricted. It is a breach of civil liberties. It is outrageous that the Vatican City flag can be considered one that might get somebody criminalised. Can the cabinet secretary make it clear to Police Scotland that, as lawmakers, the Scottish Parliament finds it deeply offensive and unacceptable that such flags are listed and that people’s civil liberties are being breached?

Humza Yousaf: I will give James Kelly the benefit of the doubt, because he might

not have read the guidance in detail. As I said in my previous answer, the guidance states that flying the Vatican City flag, for example, in its unaltered state—that is important—would not, in itself, be a criminal offence. Police Scotland has said that, and it is happy for me to say that, too. Particular actions, such as altering any national flag, could make flying that flag an offence. As attendees at football matches, James Kelly and I know that flags could be altered to include the names of organisations that are proscribed under the Terrorism Act 2000. Flying national flags, such as the Vatican City flag, in their unaltered state would not, in itself, be a criminal offence. I give that reassurance to James Kelly and other members.

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11710&i=106029#ScotParlOR>

Scottish Parliament Standards, Procedures and Public Appointments Committee

Cross-party Group

The Convener (Bill Kidd, SNP): Agenda item 2 is consideration of correspondence received from Mr Sammy Stein with regard to a cross-party group. In 2017, Mr Stein wrote to the committee to complain about the CPG on Palestine. The committee convener at the time confirmed that non-MSP membership of a cross-party group is a matter for the group itself and concluded that the CPG on Palestine had therefore not broken the rules in relation to its membership arrangements. The focus of today's discussion is a letter that Mr Stein wrote to the committee in March, in which he asked for the rules on CPGs in the code of conduct to be reviewed. In that letter, Mr Stein makes five specific recommendations that members will have read. ...

The work of CPGs is not formal parliamentary business, although the groups tend to meet in the Parliament as MSPs are able to book rooms here, mainly in the evenings when the Parliament is closed. CPGs do not have access to any financial or staffing resources from the Parliament for their meetings and the code of conduct requires them to respect the limitations on the use of parliamentary facilities. Under the code of conduct, any decision about membership is a matter for the group itself, and groups are within their rights to refuse non-members entry to the meeting. ...

Elaine Smith (Labour): ... some of the cross-party groups in which I have been involved deal with sensitive issues, and members of the group might want to share their experiences in a safe space. ...

... I do not think that this committee can start micromanaging cross-party groups. It is up to the groups to run their own operations under the rules that we have.

Gil Paterson (SNP): ... It would be problematic to allow someone who the group was uncomfortable with to attend the group's meetings. ...

Mark Ruskell (Green): It is useful and welcome to receive such a letter, because it allows us to reflect on the purpose and function of cross-party groups. However, I agree with Elaine Smith and Gil Paterson that there is a misunderstanding here about what cross-party groups are. Their meetings might take place in a building that is a public institution, but the meetings are ultimately private. Given that context, I feel that the recommendations that have been suggested to us are not appropriate.

One recommendation relates to providing reasons for the rejection of an application and one relates to providing reasons for the expulsion of a member. Some cross-party groups might be in a position to provide reasons, and that might be the polite thing to do, but it would be inappropriate for some cross-party groups, particularly those that work with vulnerable people and involve sensitivities ...

Jamie Halcro Johnston (Conservative): ... However, the public perception of cross-

party groups might be very different from how they are constituted in the Parliament's code of conduct, and that has a bearing on how we do business here. We need to recognise that we cannot educate everybody on exactly what CPGs are. The default position should be that people should be able to attend cross-party group meetings. However, it would be acceptable, right and fair for some people to be excluded from the groups under the particular circumstances that have been outlined—there will be other reasons, too. In normal circumstances, it should be good practice to advise people, when possible and practical, on why they might be refused membership of, or excluded from, a cross-party group, but I accept that there will be circumstances when that will not be possible because of the reasons that have been outlined.

Tom Mason (Conservative): ... In normal circumstances, providing some explanation for such decisions should be encouraged. The words “normal” and “encouraged” should be emphasised, because there are cases in which doing that would not be appropriate. ...

The Convener: ... It will be for the committee to decide whether this approach is right or wrong, but the clerks of the committee might want to contact all 104 cross-party groups with a reminder of the rules on membership of CPGs in the code of conduct. In doing so, the clerks could remind cross-party groups that any decision about membership, including whether to limit the number of non-MSP members, is a matter for the group itself. The clerks could also suggest that cross-party groups may, depending on the circumstances, wish to reflect on how they can ensure an appropriate level of transparency in their decisions on membership. Does that seem reasonable? ...

Members indicated agreement.

To read the full transcript see

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11701&i=105954#ScotParlOR>

For background information about the situation leading to the above exchange see: SCoJeC protest attempt to exclude us from a meeting in the Parliament

https://scojec.org/news/2017/17iv_cpg/cpg.html

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Israel

See also the references to Israel under “Scottish Parliament Oral Answers” and “Scottish Parliament Standards, Procedures and Public Appointments Committee” in the “Home Affairs” section above.

Foreign and Commonwealth Office

Alistair Burt: Strongly condemn the murder of two Israelis in the West Bank today. My thoughts and prayers are with the victims' families

<https://twitter.com/AlistairBurtUK/status/1048919309987266560>

Alistair Burt: Another child killed by Israeli fire during protests in Gaza. Children should not be targets. Real efforts are needed to break this cycle of violence - Hamas must engage in reconciliation for the sake of the people of Gaza

<https://twitter.com/AlistairBurtUK/status/1048819046177820673>

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Relevant Legislation ** new or updated today

UK Parliament

Holocaust (Return of Cultural Objects) (Amendment) Bill

<https://services.parliament.uk/Bills/2017-19/holocaustreturnofculturalobjectsamendment.html>

Marriage Act 1949 (Amendment) Bill

<http://services.parliament.uk/bills/2017-19/marriageact1949amendment.html>

Online Forums Bill

<https://services.parliament.uk/Bills/2017-19/onlineforums.html>

Organ Donation (Deemed Consent) Bill

<http://services.parliament.uk/bills/2017-19/organdonationdeemedconsent.html>

Scottish Parliament

Human Tissue (Authorisation) (Scotland) Bill

<http://www.parliament.scot/parliamentarybusiness/Bills/108681.aspx>

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Consultations ** new or updated today

Reform of the legal requirements for divorce (closing date 10 December 2018)

<https://consult.justice.gov.uk/digital-communications/reform-of-the-legal-requirements-for-divorce/>

The future of civil partnership in Scotland (closing date 21 December 2018)

<https://consult.gov.scot/family-law/the-future-of-civil-partnership-in-scotland/>

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