



The Scottish Parliament  
Pàrlamaid na h-Alba

Scottish Parliament Information Centre  
Canongate 01  
The Scottish Parliament  
Edinburgh  
EH99 1SP

**20 November 2013**

Mr Tom Minogue  
By email

Dear Mr Minogue

**SPICe briefing on petition PE1491**

Thank you for your email dated Monday 18 November 2013 which comments on the SPICe briefing on your petition regarding secret society membership declarations by decision-makers.

As a first point, it should be noted that the petitions briefings produced by SPICe are intended to summarise the main issues engaged by a particular petition for the benefit of the members of the Public Petitions Committee. They are intended to be short and therefore cannot go into detail about all the background information, or every issue, related to a petition.

In this letter, I've attempted to summarise – and respond to – the key issues you highlight in relation to the accuracy of the briefing.

**The briefing's description of Jack Straw's decision to end requirement for judges in England and Wales to declare whether they were masons**

You point out that this decision was made in 2009 not 2007, as appears in the text of the briefing. You are correct and we apologise for this oversight. However, I hope you would agree that this date was not key to any of the issues described in the briefing. I also note that the reference provides the correct date and a link to the Home Secretary's full statement.

You also complain that the briefing describes the policy as being abandoned "as a result of concerns" that it breached human rights requirements. You argue that the policy was abandoned as a result of a review of its usefulness. It would appear that the policy was reviewed because of human rights concerns, so I do not think it would be fair to describe the statement in the briefing as factually inaccurate – however, it would be equally valid to describe the situation in the terms you use. I note that a link to the statement is provided in the briefing so a reader wishing a fuller understanding can read it for themselves.

**The briefing cites cases from the European Court of Human Rights but not a case from the Social Security Commissioners which you highlight**

The Scotland Act 1998 sets out the limits to the devolved competence of the Scottish Parliament and Scottish Government. This creates limits to what it is legally possible for the Scottish Parliament or Scottish Ministers to do. One aspect of these limitations is that it is not possible for the Scottish Parliament or Scottish Ministers to do things which are contrary to the provisions of the European Convention on Human Rights (as interpreted by the European Court of Human Rights).

It is therefore very important that MSPs are aware of any relevant case law from the European Court of Human Rights which may limit their scope for action. It is not as important that they are aware of cases from the Social Security Commissioners, as these do not affect their ability to act in the same way.

There are many cases from the European Court of Human Rights which could be relevant to your petition. The SPICe briefing sought to highlight those which were, in the judgement of the researcher, most important within the constraints of providing a summary of the issues. The briefing does not attempt to give a definitive interpretation of the law – only to summarise the cases in question. In relation to the subject matter of your petition, the briefing leaves the law in this area open to interpretation, stating, “it is unclear whether a requirement to declare membership of a broad category of organisations which may include the Freemasons would be considered to breach the right to freedom of association”.

**Failure to highlight various issues or correspondence related to your previous petition**

In providing a summary of previous Scottish Parliament activity in the area of your petition, it would not usually be considered necessary to look into the issue in such detail. This may have resulted in a lack of focus on the role you played in bringing the role of the Speculative Society of Edinburgh to public attention.

Finally, may I add that we in SPICe take very seriously our responsibilities in providing Members and parliamentary committees with accurate and impartial briefing. We wholeheartedly endorse the Parliament’s founding principles of openness and accessibility which is why SPICe briefings, including petition briefings, are made available to the public through publication on the Parliament’s web pages.

Yours sincerely

*Denis Oag*

Denis Oag  
Head of Research and Library

cc Clerk to the Public Petitions Committee