



Mr Jamie Hepburn MSP  
Scottish Parliament  
EDINBURGH  
EH99 1SP

20 April 2012

Chief Executive's Office  
1A Parliament Square  
Edinburgh  
EH1 1RF

DX 549306  
LP1 Edinburgh 10

Dear Mr Hepburn

**SCOTTISH PARLIAMENTARY QUESTIONS: S4W-06437: ALLOCATION OF JUDICIARY TO CRIMINAL APPEALS**

The Cabinet Secretary for Justice's written response of 29 March to your parliamentary questions (S4W-06437) advised that the matters raised in the questions are the responsibility of the independent Scottish Court Service (SCS). Your question has been passed to me for reply.

**S4W-06437:** *To ask what the position of the Scottish Court Service is on a judge sitting on a criminal appeal who is related to either the counsel of the appellant or representatives of the Crown.*

The formal answer to your question is that the SCS has no position on the appointment of judiciary to specific criminal appeals. It may, however, be helpful if I clarify the arrangements under which senators are allocated to hear criminal appeals.

Under the terms of Part 2 of the Judiciary and Courts (Scotland) Act 2008, the Lord President, as Head of the independent Scottish Judiciary, has responsibility for securing the efficient disposal of business in the Scottish courts. Part 1 of the 2008 Act guarantees the continuing independence of the judiciary.

The SCS supports the Lord President in fulfilling his role. Within the Supreme Courts, the Keeper of the Rolls will assist the Lord President in preparing the weekly allocation of business, although ultimate responsibility for the allocation of cases to specific judiciary rests with the Lord President.

Once the weekly list is prepared, it is a matter for each member of the judiciary to consider whether there is any reason why they should recuse themselves from hearing a case, or, alternatively, disclose any relevant knowledge or relationship with the parties involved. Where a senator in preparing for a case identifies a possible reason why he or she should not preside, for example the senator may have acted previously for a party, the Keeper is contacted. The Keeper will, in consultation with the

Lord President, identify a replacement and the weekly list of allocations will be altered accordingly and reissued.

*The Statement of Principles of Judicial Ethics for the Scottish Judiciary*, published by the Lord President in April 2010, provides advice to members of the judiciary in fulfilling their role, including with reference to maintaining impartiality. *The Statement* is published on the Judiciary of Scotland website.

These are not matters on which the SCS, in providing administrative support to the court, has any role or view.

I hope the above information is helpful.

A copy of this letter will be placed in the Scottish Parliament Information Centre and published on the Scottish Court Service website.

Yours sincerely



Eleanor Emberson  
Chief Executive  
0131 444 3301  
[eemberson@scotcourts.gov.uk](mailto:eemberson@scotcourts.gov.uk)