

Official Report 4 November 2004

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Scottish Parliament

Thursday 4 November 2004

Question Time

SCOTTISH EXECUTIVE

Extract:

Challenges to Court Rulings

6. Alex Neil (Central Scotland) (SNP): To ask the Scottish Executive what criteria it uses when deciding whether to pursue legal challenges to court rulings. (S2O-3809)

The Lord Advocate (Colin Boyd): Decisions on whether to challenge court rulings depend on the nature of the court or tribunal in question. A relevant factor is whether an appeal is available on both fact and law, or on points of law only.

In considering whether an appeal should be lodged in a case, ministers act on legal advice about the prospects of success. They also take into account the cost of pursuing the appeal as against the cost of accepting the judgment at first instance, and the need to obtain an authoritative ruling from a higher court or tribunal on a question of public interest or importance.

Alex Neil: Will the Lord Advocate review how his department has handled the Shirley McKie case, in which a legal challenge was mounted to a court ruling, despite promises that the then Minister for Justice made in the Parliament to Shirley McKie? Will the Lord Advocate pursue a settlement with her with all due speed, as the Executive promised?

The Lord Advocate: That matter is sub judice, as Mr Neil will appreciate, and I cannot comment on the specific circumstances. However, I am happy that my department has handled the case properly and that the minister is acting under legal advice.