Justice Committee

Remit and membership

Remit:

To consider and report on:
 a) the administration of criminal and civil justice, community safety and other matters falling within the responsibility of the Cabinet Secretary for Justice; and
 b) the functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.

Membership:

Christian Allard (from 7 November 2013)
Roderick Campbell
John Finnie
Christine Grahame (Convener)
Colin Keir (from 1 June 2011 to 7 November 2013)
Jenny Marra (Deputy Convener) (from 22 December 2011 to 3 September 2013)
Alison McInnes
David McLetchie (from 16 November 2011 to 12 August 2013)
Margaret Mitchell (from 10 September 2013)
Elaine Murray (Deputy Convener) (from 3 September 2013)
John Pentland (from 3 September 2013)
Sandra White (from 18 September 2012)

Committee Clerking Team:

Irene Fleming
Joanne Clinton
Neil Stewart
Christine Lambourne
The Committee reports to the Parliament as follows—

**Introduction**

1. This report covers the work of the Justice Committee during the parliamentary year from 11 May 2013 to 10 May 2014.

**Bills**

*Victims and Witnesses (Scotland) Bill*

2. The Bill, introduced on 6 February 2013, aimed to reform the justice system to improve the experience of victims and witnesses.

3. The Health and Sport Committee was designated as secondary committee. It considered and reported to the Justice Committee, on 27 May 2013, on the provisions in the Bill relating to the establishment of a National Confidential Forum.

4. The Committee published its Stage 1 report to the Parliament on 3 June 2013, recommending that improvements be made to certain provisions in the Bill, in particular to ensure that the rights of the accused and those of victims and witnesses are balanced appropriately.

5. The Bill was passed by the Parliament on 12 December 2013.

*Tribunals (Scotland) Bill*

6. The Bill, introduced on 8 May 2013, aimed to create a new, two-tier structure for devolved tribunals in Scotland; a First-tier Tribunal for first instance decisions and an Upper Tribunal to primarily deal with appeals, both under the leadership of the Lord President of the Court of Session.

7. The Committee published its Stage 1 report on 14 October 2013 and the Bill was passed by the Parliament on 11 March 2014.

*Criminal Justice (Scotland) Bill*

8. The Bill was introduced in June 2013. It is a complex Bill and the Committee received over 50 written submissions and held 11 oral evidence sessions. It
published its report to the Parliament at Stage 1, on the general principles of the Bill, on 6 February 2014.

9. While the Committee agreed to the general principles, the proposal to abolish the requirement for corroboration in criminal cases divided opinion amongst members. The Committee agreed that, if the general requirement for the removal of corroboration remained in the Bill, it should only be considered after an independent review of what other reforms may be needed to ensure that the criminal justice system as a whole contains appropriate checks and balances.

10. In recognition of witnesses’ concerns expressed during Stage 1, the Cabinet Secretary for Justice asked the Rt Hon Lord Bonomy to conduct a review of further reforms that may be necessary in light of the corroboration provisions in the Bill. The Cabinet Secretary subsequently agreed to postpone Stage 2 consideration of the Bill until after Lord Bonomy has reported in 2015.

**Courts Reform (Scotland) Bill**

11. The Committee took evidence in April and May 2014 on the Courts Reform (Scotland) Bill at Stage 1, hearing evidence from a range of justice bodies, victims’ groups, unions and experts on human rights, personal injury, family law, immigration and environmental issues, as well as from the Lord President, Sheriff Principal James Taylor and the Minister for Community Safety and Legal Affairs.

12. The Committee welcomed the general principles of the Bill. It did, however, raise concerns about proposals in the Bill to increase the monetary threshold for action in the sheriff court from £5,000 to £150,000. Additionally, the Committee recommended that all appeals should be heard by Sheriffs Principal; sought assurances that the abolition of the position of honorary sheriff would not disadvantage rural and remote areas; expressed concerns about the capacity of the proposed specialist personal injury court; and suggested that Sheriff Principal Taylor’s recommendations on the test for sanction for counsel be introduced.

**Inquiries and reports**

**Draft Budget scrutiny 2014-15**

13. The Committee agreed to concentrate its scrutiny of the Scottish Government’s Draft Budget 2014-15 on: (a) the police; (b) prisons and alternatives to custody, including considering provision for women offenders; and (c) the Crown Office and Procurator Fiscal Service, with a particular focus on tackling domestic abuse.

14. The Committee made a number of recommendations including that: police budgets should be devolved to local or even ward level to allow funding to be better aligned to plans; the Reducing Reoffending Change Fund should be extended for an additional year to allow projects to run for a full three years; and every effort should be made to ensure no further slippage in the building of HMP Inverclyde.

**Scottish Court Service recommendations on a future court service**

15. The Committee took evidence on the Scottish Court Service’s (SCS) report, *Shaping Scotland’s Court Services*, in order to explore the issues arising from the report in advance of its consideration of subordinate legislation to implement the
SCS’s recommendations. These proposals included closing a number of Sheriff and Justice of the Peace Courts throughout Scotland. The Committee debated the legislation but ultimately agreed, by a majority, to the proposals.

Public Services Reform (Prison Visiting Committees) (Scotland) Order 2014
16. The Committee considered written evidence and held a round-table oral evidence session in order to scrutinise a super-affirmative instrument prior to the draft Order being laid. The instrument would bring forward the Scottish Government’s proposals to abolish prison visiting committees and create the roles of prison monitors and lay monitors. The Committee published its report on the proposals in January 2014.

Inquiry into the effectiveness of the provisions in the Title Conditions (Scotland) Act 2003
17. The Committee completed its inquiry into the effectiveness of the provisions in the 2003 Act in relation to the appointment and dismissal of property factors and the recourse available to homeowners where they are dissatisfied with the services of land-owning maintenance companies. The Committee published its report to the Parliament on 5 June 2013 and the inquiry was concluded with a Committee debate in the Parliament on 9 January 2014.

Fire and Rescue Service reform
18. The Committee held two evidence sessions on fire and rescue service reform. Prior to the second session, in March 2014, the Committee sought views from stakeholders on the impact at a local level of the single fire service, the consultation process for local fire plans, the Scottish Fire and Rescue Service’s strategic plan. It also considered the Scottish Fire and Rescue Service’s proposals on its estate, including the proposals that there be three control rooms in Scotland and one fire college.

Operation of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012
19. The Committee held an evidence session with the Minister for Community Safety and Legal Affairs on 4 March 2014 on the operation of the Act.

Legislative consent memorandums
20. The Committee considered three legislative consent memorandums (LCM):

- Anti-social Behaviour, Crime and Policing Bill

- Anti-social Behaviour, Crime and Policing Bill (supplementary LCM which related to provisions criminalising forced marriage)

- Offender Rehabilitation Bill.

21. The Committee was frustrated in its scrutiny of these LCMs due to the timescales involved in carrying out this work.
Subordinate legislation

22. The Committee considered four affirmative and 29 negative Scottish statutory instruments (including those implementing changes to the court service) during the parliamentary year. The Committee also considered four instruments that were laid but were not subject to any parliamentary procedure.

Petitions

23. The Committee considered several petitions over the course of the year: PE1280 on fatal accident inquiries when a person from Scotland dies abroad; PE1370 on Justice for Megrahi; PE1427 on multi-party actions; PE1436 on the retrospective abolition of the requirement for corroboration; PE1449 on preserving an independent Scottish Civil Justice Council; PE1479 on amending the Legal Profession and Legal Aid (Scotland) Act 2007; and PE1504 on Civil Appeals from the Court of Session to the Supreme Court.

EU engagement

24. Of continuing interest to the Committee during 2013-14 was the UK Government’s decision to opt out of all EU police and criminal justice measures adopted prior to the Lisbon Treaty and to negotiate to opt back into 35 individual measures. It has received regular updates from the Scottish Government and monitored the various Westminster inquiries on the opt-out and, most recently, the Committee heard from the Minister for Community Safety and Legal Affairs on 4 March. In considering this issue, the Committee received representation from some stakeholders expressing concern at the negative implications of opting out.

25. The Committee also sought regular updates on its other areas of interest, including aspects of the Scottish Government’s European Engagement Action Plan, a Commission Recommendation on special safeguards for vulnerable suspects and accused persons, and a proposal to create a European Public Prosecutor’s Office (EPPO).

26. The EPPO proposal was considered by the Committee in the context of a possible breach of the subsidiarity principle in September 2013, when the Committee heard from the Cabinet Secretary for Justice and concluded that there was a definite breach. This decision led to a Committee motion on the subsidiarity breach being debated and agreed to by the Parliament for the first time. The UK Parliament also took this position and submitted reasoned opinions along with 16 other chambers of member states. However, the European Commission has since confirmed that it will continue to pursue the proposal unchanged.

Fact-finding work

Transfer of prison healthcare to the NHS

27. The Committee held a round-table evidence session in May 2013 on the provision of healthcare in prisons by the NHS, following its transfer from the Scottish Prison Service.
Women Offenders
28. The Committee heard evidence from the Cabinet Secretary for Justice on his second annual report on the implementation of the recommendations of the report by the Commission on Women Offenders.

Engagement and innovation
29. The Committee continued to innovatively engage with a wide variety of stakeholders. On 26 March 2013, the Committee organised an informal round-table evidence session with victims of crime. This informal setting encouraged witnesses to speak more freely about sensitive personal issues and informed the Committee’s scrutiny of the Victims and Witnesses (Scotland) Bill. Points raised during this session were highlighted in the Committee’s Stage 1 report on the Bill which was published on 3 June.

Equalities
30. Equalities issues continued to be mainstreamed throughout the Justice Committee’s work. Examples include the work the Committee undertook on the Victims and Witnesses (Scotland) Bill as well as its scrutiny of the proposed criminalisation of forced marriage and of the approach of the Crown Office and Procurator Fiscal Service in tackling domestic abuse.

Human rights

Meetings
32. The Committee held 37 meetings, all of which took place in the Scottish Parliament. Two of the meetings took place entirely in private; 27 meetings involved items taken in private. As is usual practice, the items taken in private were mostly to consider draft reports, and also included consideration of the Committee’s work programme.

Justice Sub-Committee on Policing
33. A Sub-Committee of the Justice Committee was established in March 2013 to oversee the operation of the Police and Fire Reform (Scotland) Act 2012 as it relates to policing. The Act replaced the eight territorial police forces and associated centralised functions in Scotland with one national force, the Police Service of Scotland, to be overseen by a Scottish Police Authority (SPA).

34. Sub-Committee members were selected from the Justice Committee, Local Government and Regeneration Committee and Equal Opportunities Committee, to represent these committees’ interests in policing. The Sub-Committee held 15 meetings, all of which took place in the Scottish Parliament.

35. During the reporting year the Sub-Committee has heard oral evidence from the Chief Constable and other serving officers, the SPA and representatives of police...
staff organisations in relation to ICT provision, complaints and investigations and local policing. For its work on local policing, the Sub-Committee issued a call for written evidence, heard from HM Inspector of Constabulary for Scotland and from Deputy Chief Constable Rose Fitzpatrick and also undertook fact-finding visits to local areas to inform its consideration.

36. The Sub-Committee expects to publish a report to the Justice Committee on its consideration of the first year of the operation of the Act during the next reporting year.
Members who would like a printed copy of this Numbered Report to be forwarded to them should give notice at the Document Supply Centre.