Justice Committee

Inquiry into the role and purpose of the Crown Office and Procurator Fiscal Service

Written submission from the Scottish Older People’s Assembly

The Crown Office and Procurator Service is responsible for determining whether, or not, to prosecute having received the police reports. The public interest is an important factor in criminal prosecutions.

From my experience as a JP the majority of people accused of a crime tend to be young (18-25) except for road traffic offences where accused are across all age bands.

My dealings with older people are is therefore limited but have included:

1. A man in his 90’s brought to court for speeding. The man visits his wife in a care home twice a day. He was a little late one day and drove at 45 mph in a 30 mph area. He appeared in court with his son (70+) who came into the dock with him (with my agreement) as the father was very hard of hearing. He had been offered a fixed penalty by both the police and the Procurator Fiscal (£100 +3 penalty points). He could not afford to pay this in one go so was brought to court. He was distressed an embarrassed at having to attend court as he had never been in any trouble. He was given a lenient sentence but was still upset. He also had to sit about waiting for his case to be called as he did not have a solicitor. And solicitors’ cases are always called first. The Procurator Fiscal decides the order of business, so perhaps using some discretion to prioritise cases dealing with older people or people with disabilities could be addressed.

2. An elderly man was brought into court in handcuffs by G4. He had been arrested the day before for non-payment of a fine. His address was a care home. He was very confused (possibly suffering from dementia). He didn’t understand where he was or why. To be fair the police had been good to him but he was very agitated. I wrote off the unpaid fine and ordered that he remained in safe custody until someone from the care home came to collect him. I am not sure where he was when he was arrested but surely the police could have reported back to the court that the enforcing of an arrest warrant seemed inappropriate allowing the JP the option of recalling it.

3. I have had a few elderly people as witnesses attend court. They often have to sit and wait for long time periods before being called.

4. It is also the practice that witnesses stand to give evidence and then be cross examined. This can be difficult if they have common ailments like arthritis, but do not want to appear to be a nuisance by asking for the option of sitting down. There seems no good reason why all witness should not sit except when taking the oath - as happens in American courts.

Scottish Older People’s Assembly
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