

Rùnaire a' Chaibineit airson Ceartas agus Seann-ghaisgich  
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25 March 2021

Dear Convener

## **MINERS' STRIKE (PARDONS (SCOTLAND) BILL – STAGE 1 REPORT**

I am grateful to the Committee for its scrutiny of the Bill and for its detailed conclusions and recommendations in the Stage 1 Report.

I now enclose my response to the Committee's Stage 1 Report, in the attached Annex. For clarity, the numbered headings in the Annex refer to the paragraph numbers from the Stage 1 report.

If the Parliament is content to approve the principles of the Bill, I shall work with the Committee to ensure that the Bill achieves what we want it to achieve. I would also be happy to meet with members of the Committee for bilateral discussions in advance of Stage 2, should they so wish.

**KEITH BROWN**

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MINERS' STRIKE (PARDONS) (SCOTLAND) BILL:  
RESPONSE TO THE EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE'S  
STAGE 1 REPORT

**(58) The Committee heard strong support for the Bill and welcomes the Scottish Government's commitment to righting some of the wrongs that many communities suffered during the miners' strike. The Committee agrees an automatic pardon will go some way to providing justice for families affected.**

The Scottish Government is pleased to note that the Committee agrees that an automatic pardon is appropriate. The strike took place nearly four decades ago and there are few if any surviving police or court records. This necessitates a simple approach to the conditions of the pardon, which minimises any caveats which could put difficulties in the way of miners being able to assess their eligibility.

The Scottish Government wants eligible miners to feel pardoned and to not be put off by the administrative burden which an application scheme would place on them. Evidence to accompany an application would be very difficult if not impossible for them to source, given the passage of time. That is why it is important to offer the collective pardon proposed in this Bill and on the basis of self-assessment rather than by application.

**(59) The Committee acknowledges the difficulties faced by the Scottish Government in identifying individuals who may fall within the scope of the pardon due to a lack of available records from the time. While witnesses broadly supported an automatic pardon, the Committee also heard persuasive evidence from mining communities that, in addition, a letter or written statement from the Scottish Government would be welcomed by individuals affected, and particularly by those families where miners have now passed away.**

**(60) The Committee welcomes proposals made by the Scottish Government to work with the NUM to identify as many individuals as possible and urges it to explore this option. It also recommends that the Scottish Government provides a straightforward way for individuals and families to contact it directly should they consider they fall within the scope of the pardon, for example, via the Scottish Government website.**

**(61) The Committee is keen to ensure however that in taking the above steps there is no delay in the proposed passage of the Bill.**

The Scottish Government notes that the Committee have called for it to work with the National Union of Mineworkers (NUM) to identify as many individuals as possible who may benefit from being informed about the pardon. The Scottish Government has already had some productive discussions on this matter with the NUM and its representatives. That work is ongoing but will bring challenges given the passage of time since the strike and the consequent lack of up to date contact details. It will also be important to observe data protection legislation as regards to the sharing of NUM member contact details. The Scottish

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Government is however committed to working with partners and using as many levers as we can to maximise awareness of the pardon should the Bill be passed.

The Scottish Government will also consider carefully how individuals can best make contact should they require further information about the pardon. The Scottish Government is also considering whether general documentation can be prepared about the pardon to ensure that speedy and comprehensive responses may be issued to anyone making an enquiry.

**(68) The Committee notes the difficulties faced by the Scottish Government in accurately determining the number of non-miners who were arrested while supporting miners during the strike. It accepts that the definition will capture the majority of individuals affected.**

**(69) However, the Committee heard evidence from mining communities that some family members and friends of miners who stood in solidarity with them were also convicted as a result. It believes those individuals should not necessarily be excluded from the scope of the pardon. It recommends, therefore, that the Scottish Government considers extending the definition in Section 4, particularly in relation to family members of miners.**

The Scottish Government recognises that there were other individuals who showed strong solidarity with the miners. It notes that the Committee have called for the definition in section 4 to be extended particularly to family members convicted for actions taken in solidarity with the miners. The Bill seeks to deal with the past in a sensitive way and to ensure that an appropriate balance is struck. The Scottish Government will therefore carefully consider the Committee's recommendation ahead of Stage 2 should the Parliament agree to the Bill's general principles.

**(82) The Committee heard evidence that certain incidents occurred away from the picket line in community settings, such as outside people's homes or in the street. Incidents such as these were directly connected with the strike and resulted in arrests.**

**(83) Whilst the Committee notes the concerns of the Cabinet Secretary that it is difficult to establish motivation behind specific incidents which happened in community settings including in relation to miners' welfare, and that there is a lack of records pertaining to these, it is keen to acknowledge the highly abnormal social situation that the strike created and the divisions it caused within communities. It is concerned that, in restricting the scope of the pardon, as drafted in the Bill, there is a danger of creating a hierarchy of justice.**

**(84) The Committee heard persuasive evidence from mining communities that the pardon should be extended to include actions that occurred in the community associated with the strike and, on balance, recommends that the Scottish Government should consider extending a pardon to those arrested as a result of these other activities, particularly those associated with miners' welfare.**

The Scottish Government recognises that the impacts of the strike reached beyond those who were at the picket lines, and into mining families and the wider community. The Bill seeks to promote reconciliation within former mining communities - this means to those who

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supported the strike, those who didn't and to others who may have been directly or indirectly affected by the strike such as police officers and their families.

It is therefore important that an appropriate balance is struck. Consideration would also need to be given as to whether a pardon for offences committed outwith picket lines, demonstrations and other similar gatherings would create a precedent for current or future times. The Scottish Government will therefore carefully consider the Committee's recommendation ahead of Stage 2 should the Parliament agree to the Bill's general principles.

**(91) The Committee notes that the Scottish Government went further than the recommendations of the Independent Review Group in the offences included and, in doing so, has captured the most common offences committed during strike-related activity.**

**(92) The Committee explored the scope of the offences included at section 2 of the Bill including whether those convicted of offences under The Conspiracy and Protection of Property Act 1875 should be included.**

**(93) Members of the Committee were not able to reach agreement as to whether the offences proposed in the Bill are adequate.**

The Scottish Government considers that any move to extend or change the list of offences would need to be carefully considered. This would include whether such behaviour crosses the line between being directly connected to a person's participation in the industrial action and behaviour borne of malice or a desire for retribution.

The Scottish Government considers that a cautious approach is required here to ensure that acts of particular violence or intimidation are not being condoned. This is particularly relevant to offences under The Conspiracy and Protection of Property Act 1875 which cover a wide spectrum of behaviour relating to attempting, without legal authority, to compel another person to support the strike or not go to work. For example, the use of violence to intimidate another person or their family or damaging their property. The response to paragraphs 82-84 is also relevant here. The Scottish Government will therefore carefully consider the Committee's deliberations ahead of Stage 2 should the Parliament agree to the Bill's general principles.

**(102) The Committee heard views for and against an award of compensation for those who fall within the scope of the pardon. Notwithstanding evidence on both sides, it acknowledges the significant impact to many individuals the convictions had, not only in terms of loss of income through redundancy but also loss of additional employment rights such as redundancy payments, pension rights and future prospects which were prejudiced as a result of by having a conviction.**

**(103) While the Committee recognises those impacts, it acknowledges that many of the issues which would require to be addressed are reserved to the UK Government. It also acknowledges that compensation moves the Bill away from its intention of having a symbolic effect. On balance therefore, it considers that implementation of such a scheme in Scotland would create significant practical difficulties that would delay the passage of the Bill and agrees that this Bill is not the appropriate mechanism for delivering such a scheme.**

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**(104) However, the Committee notes calls from the Scottish Government for the UK Government to undertake a full public inquiry into the miners' strike. As part of any inquiry, the Committee would like to see the options for compensation for miners and their families reconsidered.**

The Scottish Government agrees with the Committee's view that the Bill is not the appropriate mechanism for delivering such a scheme. This would create significant practical difficulties as the Committee have highlighted in its report. This Bill is intended to aid reconciliation and not compensation. The Bill does not seek to place blame on any individual or group of individuals.

The Scottish Government does however recognise that many miners and their families suffered terrible hardship as a result of taking part in the strike. Miners who took part in the strike did so to protect their jobs, their way of life, and their communities. The Scottish Government therefore sympathises with miners who lost out on redundancy payments and pension rights as a result of being sacked by the National Coal Board after being arrested or convicted for actions whilst participating in the strike.

However, Employment and Industrial Relations are reserved to Westminster. The Scottish Government considers that it is for the UK Government to take responsibility for the actions of the National Coal Board and to compensate miners. The Scottish Government notes that the Committee would like to see the options for compensation for miners and their families reconsidered should a full UK public inquiry be established by the UK Government.

The Scottish Government has previously noted its disappointment with the UK Government's continuing refusal to conduct a full public inquiry. It will however continue to press the UK Government for a UK-wide public inquiry which could also include the payment of compensation. The Scottish Government also considers that, if the Bill is passed, then this could add weight to calls for action to be taken by the UK Government.

**(124) The Committee took extensive evidence on the policing of the strike and the role of the judiciary and heard conflicting accounts from witnesses. It agrees that a full investigation into the policing and management of the strike is long overdue and should take place. It notes views on both sides as to whether the UK or Scottish Government should take responsibility for any inquiry.**

**(125) The Committee acknowledges that the Scottish Government and Scottish Parliament were not in existence at the time of the strike but also acknowledges that police and Sheriffs were acting under a Scotland specific system. On balance, it agrees that the most appropriate method for investigation is for the UK Government to hold a full public inquiry. It notes calls from the Scottish Government for the UK Government to do so and urges it to continue to work with the UK Government on this issue.**

The Scottish Government recognises that an uncovering of the truth of what happened during the strike is important to people affected by the strike. The Scottish Government remains of the view that a full UK-wide public inquiry is key to that.

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The Scottish Government commissioned the independent panel led by John Scott QC to review the impact of policing during the Strike to ensure that the experiences of Scottish mining communities were fully understood and the communities had the opportunity to move on. The content of the independent report reflected a significant amount of evidence – including UK Government Cabinet papers and files, and various academic papers and past reports on the strike. The report also drew heavily from the testimonies heard at public engagement events in former mining communities as well as written submissions.

The Scottish Government will continue to press the UK Government for a UK-wide public inquiry which would also consider a compensation scheme for former miners, and the management of the strike. The Scottish Government also considers that, if the Bill is passed, then this could add weight to calls for action to be taken by the UK Government.

To support the call for a UK-wide public inquiry, the Scottish Government would be happy to consider and compile as much factual and other information which other bodies may be able to offer, as part of any future representations made to the UK Government. The response to paragraphs 102-104 and 139 of the report is also relevant here.

**(138) The Committee heard powerful evidence both of the lasting psychological and economic impact the strike had on generations of communities, that some communities have never fully recovered, and that impacts are still felt today. It welcomes the Scottish Government’s funding and work to date through the Coalfields Regeneration Trust and urges the Scottish Government to ensure that it continues to engage directly with communities and commits to make funding available through the Trust in the future. Witnesses also told us that a statement in the Scottish Parliament would provide acknowledgement and recognition of the importance of the Bill, not only for Miners but also for those who stood in solidarity with them during the strikes.**

The Scottish Government values its longstanding relationship with Coalfields Regeneration Trust and the support they have delivered to ex-coalfield communities through our strategic partnership. The Scottish Government is currently working with the Trust to agree the support and funding package for 2022/23 and continue to work with them to develop a more sustainable funding model.

More broadly the Scottish Government continues to deliver wider programmes of community support through the Empowering Communities Programme which includes the Strengthening Communities Programme and Investing in Communities Fund which are targeted towards our least advantaged communities including ex-coalfield communities. Continued support of the programme is a commitment in the Covid Recovery Strategy.

The Empowering Communities Programme aims to complement our capital investment delivered through the Place Based Investment Programme. The programme is backed by £325 million over the course of the Parliament. This includes continued delivery of the £25 million Regeneration Capital Grant Fund and a total investment of £140 million delivered through Local Authorities.

Together these programmes act across the short, medium and longer term, working together to support resilient and sustainable communities. They do this through empowering people in communities to take action, supporting communities to develop community assets, enabling

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them to increase their leverage of investment, encouraging local economic development, enterprising activity and deliver more services and activities locally.

**(139) The Committee heard that more needs to be done for these communities in terms of investment and providing opportunities and that many communities have felt forgotten and taken for granted. The Committee welcomes the Cabinet Secretary's commitment to take further steps which go beyond the passage of the Bill and looks forward to seeing where progress can be made. The Committee also notes the Scottish Government's commitment to continue discussions with the UK Government in taking responsibility for the suffering of the mining communities during the strike period.**

The Scottish Government will continue to press the UK Government for a UK-wide public inquiry which could also include what can be done to redress the suffering of former mining communities as a legacy of the strike. The response to paragraphs 102-104, 124-125 and 138 of the report is also relevant here.

**(144) The Committee is content to recommend that the general principles of the Bill are agreed to. The Committee looks forward to hearing more from the Scottish Government about what further work it plans to undertake to continue to help rebuild these communities.**

The Scottish Government thanks the Equalities, Human Rights and Civil Justice Committee for its scrutiny of the Bill to date and welcomes the Committee's recommendation that the principles of the Bill be agreed to.

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