



The Scottish Parliament
Pàrlamaid na h-Alba

Justice Committee

Humza Yousaf
Cabinet Secretary for Justice
Scottish Government

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By e-mail

26 March 2020

Dear Humza,

COVID-19, justice matters and policing

The Justice Committee strongly supports the Scottish Government's efforts to keep people safe in the context of the ongoing COVID-19 emergency. Members fully appreciate that the Scottish Government is making difficult decisions every day. We are also very grateful to you, your officials and all of the staff in the various justice and policing bodies within our remit for their work at this very difficult time.

The Committee recognises the need not to overburden the Scottish Government and other bodies at this time. Nevertheless, the COVID-19 emergency is seeing substantial changes to powers for bodies such as Police Scotland as well as challenges for our prison services, courts etc. As the First Minister said in the Chamber on 24 March, Parliament and its members "must continue to perform their important scrutiny role at such a time."

I have set out some questions in an annex to this letter that the Committee considers are the most pressing. When time allows, in order not to put undue pressure on you and your officials, I should be grateful if you could provide the Committee with a response. I will be writing in similar terms to other bodies within our remit.

Please be assured that the Committee remains willing to do its bit during this difficult period to support our emergency services. I wish you and your officials well in these challenging times.

Best wishes,

Margaret

Margaret Mitchell MSP
Convener, Justice Committee

ANNEX

Questions on the UK Government's Coronavirus Bill and the Scottish Government's Legislative Consent Memorandum

1. What assessment has the Scottish Government made, or will be making, of the equalities, human rights and community impacts in relation to any new restrictions included the UK Government's Coronavirus Bill and the new justice and policing powers, Have relevant bodies, such as the Scottish Human Rights Commission, been consulted?
2. [*We have also asked this question of SCTS*] What impact will the Bill have on the work of the courts (including civil courts and tribunals) in Scotland. Most of the provisions on courts and tribunals in the Coronavirus Bill do not extend to Scotland, but in the Chamber on 24 March, the Lord Advocate alluded to some impacts for courts, trials and, in turn, the police service. Could you please provide some details?
3. The powers in Schedule 20 paragraph 45 (2) state that all offences prosecuted in a Scottish court are triable only summarily and carry a 12 month maximum sentence or a fine not exceeding level 5 (£5000). The maximum sentence would therefore be subject to the presumption against short sentences. What guidance is being offered as to whether the presumption will still apply in these circumstances?
4. Has the Scottish Government given Police Scotland any guidance on how to interpret the term "reasonable grounds to suspect" in relation to new police powers to detain an individual who is "potentially infectious" in Clause 49/Schedule 20 of the UK Government's Coronavirus Bill? If not, does the Scottish Government intend to issue such guidance, and if so, when will it be available?
5. Has the Scottish Government given Police Scotland any guidance on how it should approach the powers in Schedule 21 of the UK Government's Coronavirus Bill which provides powers to Scottish Ministers to prohibit a number of activities and which will be enforced by, amongst others, the police? If not, does the Scottish Government intend to issue such guidance, and if so, when will it be available? Could you please clarify the "others" are, referred to in Schedule 21?

More general/longer-term questions

1. Given your statement in the Chamber on 24 March, would you provide further details on your plans for the early release of prisoners from their sentences given the current situation. What assessments will be made and will that include a risk assessment?
2. Will the Scottish Government ensure that any new coercive powers will be limited to specific offences or defined situations and not be general in nature?

3. Would you provide details of the Scottish Government's plans to increase the opportunities to pre-record evidence, enable evidence to be given from other locations and expand the use of technology, allowing those in police custody or prison to engage in a wider range of court hearings? Can you provide details of the ability of Police Scotland to allow those in police custody to engage in court hearings?
4. Do the Scottish Government/COPFS have any plans to alter the 40-day and 140-day rule for summary and solemn procedure respectively without any case being brought to trial?
5. What steps are being taken by Scotland's Secure Care units for young people in light of the current Covid-19 outbreak? Is it still intended the new National Contract for secure care will commence on 1 April?