Justice Committee

Management of Offenders (Scotland) Bill

Written submission from Her Majesty’s Chief Inspector of Constabulary in Scotland

Part 2 Disclosure of Convictions

I refer to your correspondence of 16 March 2018 in relation to the above and would offer the following comments to assist the Committee in its scrutiny of this proposed legislation.

The policy objectives as outlined in the Bill seek to strike an appropriate balance between the rights of people in moving on with their lives following a conviction, and the rights of the public to be protected. The proposals are therefore welcome, and it seems both proportionate and appropriate for the Scottish Government to focus such reform on ‘basic disclosure’ whilst retaining existing arrangements in relation to higher levels of the disclosure system concerning more sensitive employment or proceedings.

In seeking to make the law on disclosure of convictions more clear and coherent, the Committee may also wish to consider broader opportunities within the Justice portfolio to deliver consistent policy approaches to the rehabilitation of offenders. For example, there is divergence between the periods when a conviction becomes ‘spent’ and therefore exempt from disclosure, by comparison with the provisions of the Criminal Procedure (Scotland) Act 1995 which sanctions the ‘indefinite’ retention of biometric data.

As the Committee will be aware, such issues of proportionality, necessity and consistency are discussed in some detail in the recently published report of the Independent Advisory Group on the use of biometric data in Scotland, which includes a specific recommendation for review of the law in Scotland in relation to indefinite retention.

In conclusion, I welcome the proposals around disclosure as outlined in Part 2 of the Bill and encourage the Committee to note the broader opportunities for the delivery of more consistent offender rehabilitation approaches over different policy areas within the Justice portfolio.

Gill Imery
HM Chief Inspector of Constabulary in Scotland
3 April 2018