



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE COMMITTEE

AGENDA

22nd Meeting, 2019 (Session 5)

Tuesday 17 September 2019

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Declaration of interests:** James Kelly will be invited to declare any relevant interests.
2. **Decision on taking business in private:** The Committee will decide whether to take items 8 and 9 in private.
3. **Subordinate legislation:** The Committee will take evidence on the Scottish Tribunals (Listed Tribunals) Regulations 2019 [draft] from—

Ash Denham, Minister for Community Safety, Lauren Keillor, Courts and Tribunals Policy Officer, and Heather McClure, Lawyer, Scottish Government.

4. **Subordinate legislation:** Ash Denham (Minister for Community Safety) to move—

S5M-18220—That the Justice Committee recommends that the Scottish Tribunals (Listed Tribunals) Regulations 2019 [draft] be approved.

5. **Pre-budget scrutiny of the Scottish Government's 2020/21 budget:** The Committee will take evidence from—

Stephen Sandham, Deputy Chief Inspector of Prisons, HM Inspectorate of Prisons Scotland;

Phil Fairlie, Scottish National Chairman, Prison Officers Association Scotland;

and then from—

Professor Nancy Loucks, Chief Executive, Families Outside;

Tom Halpin, Chief Executive, SACRO;

Alastair Muir, Deputy Director & Chief Inspector, Violence Reduction Unit;

Sean Duffy, Chief Executive Officer, The Wise Group.

6. **Justice Sub-Committee on Policing:** The Committee will consider a report back from the Sub-Committee meeting held on 12 September 2019.
7. **Membership of the Sub-Committee on Policing:** The Committee will discuss a proposal for new members.
8. **Children (Scotland) Bill:** The Committee will consider its approach to the scrutiny of the Bill at Stage 1.
9. **Work programme:** The Committee will consider its work programme.

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The papers for this meeting are as follows—

Agenda item 3

Paper by the clerk

J/S5/19/22/1

Agenda item 5

Paper by the Clerk

J/S5/19/22/2

PRIVATE PAPER

J/S5/19/22/3 (P)

Agenda item 6

Paper by the Clerk

J/S5/19/22/4

Agenda item 7

Paper by the Clerk

J/S5/19/22/5

Agenda item 8

Paper by the Clerk

J/S5/19/22/6

Agenda item 9

PRIVATE PAPER

J/S5/19/22/7 (P)

Justice Committee

22nd Meeting, 2019 (Session 5), Tuesday 17 September 2019

Subordinate legislation

Note by the clerk

Purpose

1. This paper invites the Committee to consider the following affirmative instrument:
 - [Scottish Tribunals \(Listed Tribunals\) Regulations 2019 \[draft\]](#)

Introduction

2. The Regulations are made section 27(2) of the Tribunals (Scotland) Act 2014(1). The purpose of the Regulations is to amend the 2014 Act to include a bus lane adjudicator in the list of tribunals whose functions may be transferred to the Scottish Tribunals under that Act.
3. Further details on the purpose of the Regulations can be found in the policy note attached at **Annexe A**.

DELEGATED POWERS AND LAW REFORM COMMITTEE CONSIDERATION

4. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 3 September 2019 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

JUSTICE COMMITTEE CONSIDERATION

5. The Justice Committee is required to report to the Parliament on the instrument by 5 October 2019. The Minister for Community Safety has lodged motion S5M-18220 proposing that the Committee recommends approval of the instrument. The Minister for Community Safety is due to attend the meeting on 17 September to answer any questions on the instrument and to move the motion for approval.
6. It is for the Committee to decide whether or not to agree to the motion, and then to report to the Parliament by 5 October 2019. Thereafter, the Parliament will be invited to approve the instrument.
7. **The Committee is asked to delegate to the Convener authority to approve the report on the instrument for publication.**

Policy Note

Scottish Tribunals (Listed Tribunals) Regulations 2019 [draft]

Purpose of the instrument

The purpose of the instrument is to amend the 2014 Act to include a bus lane adjudicator in the list of tribunals whose functions may be transferred to the Scottish Tribunals under that Act.

Policy Objectives

Regulation 2(2) inserts a new paragraph 9A in part 1 of schedule 1 of the 2014 Act to include a bus lane adjudicator in the list of tribunals whose functions may be transferred to the Scottish Tribunals under that Act.

The amendment is necessary as in addition to their parking appeal functions, the adjudicators also undertake functions in relation to bus lane contravention appeals. Parking adjudicators are already listed at paragraph 9 in part 1 of schedule 1 of the 2014 Act.

Regulation 2(3) amends paragraph 13 of part 2 of schedule 1 of the 2014 Act to specify the functions exercisable by a bus lane adjudicator and amend the functions of a parking adjudicator.

Consultation

A consultation with interested parties took place in 2018. There were no concerns raised about the proposed amendments to the listed tribunals and the responses are available on the Scottish Government website:

https://consult.gov.scot/tribunals-and-administrative-justice/parking-and-bus-laneadjudicators/consultation/published_select_respondent

Impact Assessments and Financial Effects

The Minister for Community Safety confirms that no Business and Regulatory Impact Assessment is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Justice Committee

22nd Meeting, 2019 (Session 5), Tuesday 17 September 2019

Pre-Budget Scrutiny – Scottish Prison Service and preventative/aftercare spend

Introduction

1. As part of a recent reform to budget scrutiny in the Scottish Parliament, all committees now undertake pre-budget scrutiny of the Scottish Government's draft budget, which is subsequently published later in the calendar year. The purpose of pre-budget scrutiny is for the committees to produce, report and provide comment to the Scottish Government on the delivery, impact, and funding of existing policy priorities and any proposed changes, and how these should be funded. The aim is to influence the budget when priorities are being set.
2. The justice portfolio has responsibility for the civil, criminal and administrative justice systems, which include Scotland's prisons, courts, tribunals, the legal aid system and criminal justice social work services. It supports the police and fire and rescue services. This year the Justice Committee will, in addition to a more general look at these areas, focus in on spending on prisons and preventative/aftercare programmes. In particular, the Committee has agreed to focus on views relating to budgets for prisons and prison-related health, education, employment and throughcare programmes as part of this year's scrutiny. The Committee also wants to hear views on third and voluntary sector [funding in the criminal justice sector](#).
3. As part of a previously issued call for evidence, the Justice Committee has sought views as part of this pre-budget stage on the following matters:
 - Priorities for operating and capital spend for 2020/21 and beyond within the Scottish prison system.
 - Effectiveness of spend, progress to date and spending levels proposed for the current prison modernisation programme.
 - Budgets provided to the public, third and voluntary sectors for health, education, employment, through-care, family-contact, rehabilitation/re-offending, in-cell technology and other services provided to prisoners.
 - Longer-term challenges and financial requirements to tackle issues such as staffing levels in prisons, over-crowding, drug use, safety and security of staff and prisoners, the use of the open estate and an ageing prison population.
 - Views on how to achieve a rebalancing over the longer-term in expenditure on prisons and that of community-based alternatives to

incarceration and preventative spend, including the challenges of provision in remote or rural areas.

- Any wider views on the current spending priorities for 2020/21 in the justice portfolio, including third and voluntary sector funding in the criminal justice sector.
4. The Justice Sub-Committee on Policing is currently considering Police Scotland's capital budget, taking evidence on 12 September and 3 October. The Sub-Committee will report its views to the Committee in due course.

Today's meeting

5. Today's meeting is the first of two evidence sessions planned before the Committee reports. Members will take evidence from the following:
- Phil Fairlie, Scottish National Chairman, Prison Officers Association Scotland;
 - Stephen Sandham, Deputy Chief Inspector of Prisons, HM Inspectorate of Prisons Scotland;
 - Sean Duffy, Chief Executive Officer, The Wise Group;
 - Tom Halpin, Chief Executive, SACRO;
 - Professor Nancy Loucks, Chief Executive, Families Outside; and,
 - Alastair Muir, Deputy Director & Chief Inspector, Violence Reduction Unit.
6. Written submissions of evidence received for this pre-budget scrutiny will be available online after the deadline for the call for evidence.

Clerking Team
September 2019

Justice Committee on Policing

22nd Meeting, 2019 (Session 5), Thursday 17 September 2019

Note by the Clerk

Feedback paper

Introduction

1. On 12 September 2019, the Justice Sub-Committee on Policing took pre-budget scrutiny evidence in advance of the Scottish Government's 2020/21 budget. The focus of the scrutiny was on the capital budget allocation to Police Scotland.
2. The Sub-Committee took evidence from Elaine Wilkinson, Chair of the Scottish Police Authority's (SPA) Resource Committee, James Gray, Chief Financial Officer for Police Scotland and Interim Accountable Officer for the Scottish Police Authority, and David Page, Deputy Chief Officer, Police Scotland.
3. The Sub-Committee also considered a joint [written budget submission](#) from the SPA and Police Scotland, along with submissions received from other stakeholders.¹ It also considered the [interim governance arrangements](#) that have been put in place at the SPA following the recent resignation of its Chief Executive, Mr Hugh Grover.²
4. The Sub-Committee asked about police officer numbers for Brexit contingency planning, following previous evidence on [31 January 2019](#), that the uncertainty of Brexit meant plans to reduce officer numbers by 300 were not being progressed. Police Scotland confirmed that the Chief Constable will have to reduce police officer number by 750 after Brexit pressures have passed, expected next year, as this is the only way for the police service to meet its deficit reduction target. DCC Kerr is to write to the Sub-Committee with an update on Police Scotland's Brexit planning.
5. David Page told the Sub-Committee that capital investment was at the minimum required to meet health and safety requirements and that this means that Police Scotland is putting "band aids" on its estate instead of addressing shortfalls. He estimated that 30% of the estate is in a poor condition and told the Sub-Committee that the capital budget settlement means that the police service is struggling to keep the estate, fleet and ICT working.
6. The SPA confirmed that it is likely that more police stations will need to be temporarily closed for refurbishment to address health and safety requirements.
7. Both the SPA and Police Scotland have made it clear to the Cabinet Secretary for Justice that this situation is not sustainable. If capital assets continue to erode, this will impact on Police Scotland's ability to deliver an efficient police service and on the welfare of its workforce.
8. A Demand and Productivity Unit within Police Scotland is assessing the demands on policing. David Page informed the Sub-Committee that demands will not be offset by capacity creation within the force. Both core and non-core policing

¹ Scottish Parliament Justice Sub-Committee on Policing:

<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/111891.aspx>

² Scottish Police Authority News Release, resignation of Mr Hugh Grover, 4 September 2019:

<http://www.spa.police.uk/news/581461/>

demands, such as the impact of mental health issues in society, are being assessed in terms of the 3-year staff policing plan.

9. The Sub-Committee heard that the SPA and Police Scotland have asked the Scottish Government to directly fund the 300 officers currently funded by external funding, for example by local authorities.

10. Witnesses confirmed that a stronger evidence-based case is being made to the Scottish Government for capital funding on areas such as ICT, fleet and estate. Police Scotland and the SPA said that police staff associations and unions are now involved at a much earlier stage of budget planning for Police Scotland as part of its Capital Investment Group, which formulates budget requests and prioritises the spending of capital funds provided to Police Scotland.

11. Witnesses also confirmed that budgetary pressures arising from one-off events, such as the upcoming COP26 climate change conference in Glasgow in November 2020, have a major impact on the force resources. Police Scotland estimate that this event would cost “tens of millions of pounds” to police as it could involve up to 200 Heads of State and confirmed that it may require mutual aid from other forces.

12. Witnesses were unable to confirm whether the UK Government has agreed to reimburse Police Scotland for its previous VAT payments of £125m. The SPA confirmed that it had made representations to the Scottish Government on behalf of Police Scotland.

13. Witnesses confirmed that an estate condition report is to be commissioned, and that its findings will be shared with the Sub-Committee in due course.

14. The Sub-Committee will next meet on 3 October, when it will take evidence from the Cabinet Secretary for Justice on the police capital budget.

Justice Sub-Committee clerks
12 September 2019

Justice Committee

22nd Meeting, 2019 (Session 5), Tuesday 17 September 2019

Justice Sub-Committee on Policing - membership

Introduction

1. At the start of this parliamentary session, the Justice Committee established the Justice Sub-Committee on Policing, the membership of which was recommended by the Committee to the Parliamentary Bureau and agreed by the Parliament.
2. In recent weeks, Daniel Johnson MSP has resigned from the Committee and Sub-Committee, to be replaced by James Kelly MSP. Additionally, Stewart Stevenson MSP has indicated he has resigned from the Sub-Committee, to be replaced by Jenny Gilruth MSP.
3. Standing Order Rules 12.5.3 and 12.5.4 state:

The membership of any sub-committee shall be determined by the Parliament on a motion of the Parliamentary Bureau. The membership of a sub-committee of a committee shall be proposed by that committee to the Parliamentary Bureau. Normally only members of the committee (other than committee substitutes) may be members of a sub-committee of that committee but, if the committee so decides, members of other committees may be appointed as members of a sub-committee.

In considering the membership of a sub-committee, the committee shall have regard to the balance of political parties in the Parliament.

Action

4. Members of the Justice Committee are invited to discuss the recent resignations and decide who they wish to propose to the Parliamentary Bureau as replacements for Daniel Johnson MSP and Stewart Stevenson MSP.
5. Once agreed, the Convener will write to the Parliamentary Bureau accordingly.

Clerking Team
September 2019