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Criminal Justice Committee

Annual Report for the Criminal Justice Committee (13 May 2022 to 12 May 2023)



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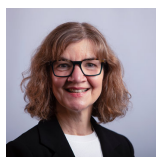
Criminal Justice Committee

To consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Veterans, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.



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Scottish National Party



Pauline McNeill
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Scottish National Party

Introduction

A year in figures - work of the Criminal Justice Committee in 2022-2023



1. This report outlines the work of the Criminal Justice Committee ("the Committee") during the Parliamentary year from 13 May 2022 to 12 May 2023.
2. There have been no membership changes.

Meetings

3. The Committee held 32 meetings over this period. Three meetings were held entirely in public, no meetings were held entirely in private, and 29 meetings were partly in private. Most items taken in private were to consider draft reports or the Committee's work programme.

Witnesses

4. In total, 131 witnesses appeared before the Committee this parliamentary year.

Legislation

Fireworks and Pyrotechnic Articles (Scotland) Bill

5. The Committee was the lead committee on this Bill at Stages 1 and 2. The [Bill](#) proposed to change the law in relation to the possession, sale and use of various types of fireworks and pyrotechnic articles, such as signal and distress flares, in Scotland.
6. The Bill also proposed to establish a national licensing system for members of the public seeking to purchase and use category F2, F3 and F4 fireworks. The Bill also proposed to give local authorities the power to establish firework control zones within their respective areas, subject to statutory guidance.
7. At the request of the Scottish Ministers, the Committee considered the Bill at Stage 1 on an accelerated timetable between 16 and 30 March 2022 and published its Stage 1 report on the Bill on 27 April 2022.
8. The Committee considered Stage 2 amendment to the Bill on 25 May and 1 June. The Bill was passed by the Parliament on 29 June 2022 and became an Act on receiving Royal Assent on 10 August 2022 as the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (2022 asp 9).
9. On 1 March 2023, the Committee considered an exchange of [correspondence](#) with the Minister for Public Safety, setting out reasons why the Scottish Government's proposed timetable for the coming into force of parts of the 2022 Act has been delayed from the intention at the time the Bill was passed by the Parliament.
10. On 3 May 2023, the Committee considered subordinate legislation made under the 2022 Act, which brought provisions on Part 5 of the Act on restrictions around the possession and use of pyrotechnic articles at certain sporting and music events, into force. The Committee took oral evidence¹ from Siobhian Brown, Minister for Victims and Community Safety on the revised implementation timetable for the 2022 Act.

Coronavirus (Recovery and Reform) (Scotland) Bill

11. The Criminal Justice Committee was a secondary committee on this [Bill](#) and was charged with considering its justice provisions. There were two types of justice provisions – permanent and temporary. The permanent changes were ones put in place during the Covid-19 pandemic, but which the Scottish Government considered were worthy of retaining on a permanent basis. The temporary provisions included extending temporary powers in areas such as virtual trials, fiscal fines, time limits for criminal proceedings, and the release of certain prisoners.
12. During this reporting year, in June 2022, the Committee considered the Bill at Stage 2.

Bail and Release from Custody (Scotland) Bill

13. The Committee was the lead committee on this [Bill](#) at Stages 1 and 2. The Bill proposes changes to the law in two main areas: decisions about granting bail to people accused of a crime; and arrangements for the release of prisoners and the support that is provided to those who leave prison.
14. The provisions in the Bill included a new requirement for justice social work to be given the opportunity to input into bail decisions, and changing the test for granting bail. Other provisions include establishing minimum standards for throughcare support provided to prisoners in prison and during their transition back into the community.
15. As part of its scrutiny of the Bail and Release from Custody (Scotland) Bill, the Committee held informal discussion sessions with the survivors of serious crime to discuss their views on the criminal justice system and the issues covered by the Bill.
16. The Committee also held informal meetings with the Shine Women's Mentoring Service and the Council of Voluntary Organisations (East Ayrshire) Ltd to discuss their work and the challenges of supporting vulnerable prisoners on their release.

MSPs visiting the Council of Voluntary Organisations (East Ayrshire) Ltd



17. In addition, the Committee visited Glasgow Sheriff Court to view the proceedings of a typical busy custody court and met with the Sheriff Principal and other members of the judiciary.
18. The Committee published its Stage 1 report on the Bill on 6 March 2023. Stage 2 proceedings on the Bill took place on 10 and 17 May 2023.

National Care Service (Scotland) Bill

19. The [National Care Service \(Scotland\) Bill](#) was introduced into the Parliament by the Scottish Ministers in June 2022. The primary purpose of the bill is to establish a single National Care Service in Scotland for the purpose of delivering social care services. The Bill would transfer existing social care responsibility from local authorities to the new service. The lead Committee for consideration of the Bill is the Health, Social Care and Sport Committee (the lead Committee).
20. The Criminal Justice Committee was a secondary committee on this Bill and was charged with considering its justice provisions. Section 30 of the Bill would place a statutory duty on the Scottish Ministers to undertake a statutory consultation on whether criminal justice social work services should also be transferred from local authorities to the proposed National Care Service, following its establishment. If such a transfer were to take place, the Bill sets out this would be done by way of secondary legislation and statutory regulations after the Bill is enacted.
21. The Committee considered Section 30 of the Bill between 9 November and 21 December 2022, and published its report to the lead Committee on 10 February 2023. As of May 2023, consideration of the Bill at Stage 1 has been paused by the Parliament.

Children (Care and Justice) (Scotland) Bill

22. The Committee was appointed as a secondary committee for the purposes of scrutinising two of the provisions in the [Bill](#) at Stage 1. These were the proposals to remove the ability for children to be remanded or sentenced to detention in young offenders' institutions (YOIs) or prisons, instead requiring that where a child is to be deprived of their liberty this should normally be in secure accommodation, and proposals on the rights of children held in police custody.
23. The Committee heard views at two evidence sessions on the 29 March and 19 April, and published its report to the lead committee on 12 May 2023.

Secondary legislation

24. During the parliamentary year, the Committee considered 16 Scottish Statutory Instrumentsⁱ, eight of which were negative instruments and eight were affirmative instruments. The affirmative SSIs were as follows:
 - International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2022
 - Scottish Biometrics Commissioner Act 2020 (Code of Practice) (Appointed Day) (Scotland) Regulations 2022
 - Advice and Assistance (Summary Criminal Proceedings) (Miscellaneous Amendment) (Scotland) Regulations 2022

- Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 2) Regulations 2022
- Surrender of Offensive Weapons (Compensation) (Scotland) Regulations 2022
- Criminal Justice Act 1988 (Offensive Weapons) (Amendment, Surrender and Compensation) (Scotland) Order 2022
- Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (Consequential Modifications, Saving and Transitional Provisions) Regulations 2023
- Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2023

Legislative consent memorandums

25. The Committee considered three legislative consent memorandums on the following UK Parliament Bills during the parliamentary year:

- [Online Safety Bill](#)
- [Northern Ireland Troubles \(Legacy and Reconciliation\) Bill](#)
- [Public Order Bill](#)

ⁱ A Scottish Statutory Instrument (SSI) is a form of legislation which allows the provisions of an Act of the Scottish Parliament to be subsequently brought into force or altered without the Scottish Parliament having to pass a new Act.

Inquiries

Pre-Budget Scrutiny of the Scottish Government's Draft Budget 2023-24

26. The Committee undertook pre-budget scrutiny of the Scottish Government's 2023/24 draft budget between September and November 2022. The focus of the Committee's scrutiny was primarily on the implications of the proposed flat-cash settlement for the justice sector set out in the Scottish Government's Resource Spending Review framework in May 2022.
27. As a result of changes to the UK Government's budget plans in September/October 2022, the finalisation of the draft 2023/24 budget by the Scottish Government was delayed until December 2022.
28. The Committee received 45 written submissions in response to its public call for views on the proposed flat-cash settlement. The Committee took oral evidence from various witnesses, and from the then Cabinet Secretary for Justice and Veterans, between 26 October and 23 November.
29. The Committee published its pre-budget scrutiny report on 9 December, and the Scottish Government provided its written response to the Committee's conclusions and recommendations of the draft budget on 22 December 2022.

Action Plan and Priorities for the Justice Sector in Session 6

30. At the start of this parliamentary session, the Committee published a report entitled [Judged on progress: The need for urgent delivery on Scottish justice sector reforms](#). This set out the Committee's priorities for reform of various parts of the justice sector in the form of an [Action Plan](#).
31. At periodic times since publication, the Committee updates its Action Plan on the progress being made to deliver against the recommendations made. The last update was in March 2023, with other reviews taking place on 22 June 2022 and 22 February 2023.
32. The Committee notes the progress that has been made this parliamentary year in delivering on some of the recommendations made by the Committee in its Action Plan, including:
 - Bringing in a new process in Scottish prisons to reduce the smuggling of drugs by introducing the photocopying of prisoner mail;
 - Consideration now being given to a proposal to end the use of Friday releases from prisons, which was included in the Bail and Release from Custody (Scotland) Bill;

- Proposal by the Scottish Government to introduce a pilot scheme to enable survivors of rape to have access to transcripts from their court cases.

Members of the Committee visiting the Liliac Centre, Glasgow, one of the two new community custody units for women prisoners



Equal opportunities

33. The Committee's main area of interest in relation to its work and equal opportunities has been its focus on gender-based violence, such as tackling violence against women and girls, or domestic abuse. Details of our work in these areas are set out elsewhere in this Annual Report.
34. The Committee has also looked at the policy of the Scottish Prison Service and the court system towards the housing of transgender prisoners. An evidence session on this issue took place on 22 February 2023.

Post legislative scrutiny

35. The Committee has conducted one parliamentary inquiry this reporting year. This was a review of the Domestic Abuse (Scotland) Act 2018, which brought in a new offence to help tackle non-physical forms of abuse, such as coercive control.
36. The Committee's [findings](#) were published on 4 May 2023.

Cross-committee work on reducing drugs deaths in Scotland and tackling problem drug use

37. The Criminal Justice Committee, the Health, Social Care and Sport Committee and the Social Justice and Social Security Committee continued their collaborative scrutiny, via joint meetings, of the efforts to reduce the rate of drugs deaths in Scotland and to tackle problem drug use.
38. Three or four representatives from each of the Committees attended the joint committee meetings to ensure that all parties were represented and that these matters were looked at in a more holistic way covering justice, policing, health and social justice matters.
39. On Tuesday, 31 May 2022, the three Committees led a Chamber debate on tackling drugs deaths and drug harm.
40. Members of the three Committees met on two occasions in this parliamentary year:
 - 24 November 2022 – to hear from the then Scottish Government Minister for Drugs Policy, Angela Constance
 - 22 March 2023 also to hear from Angela Constance.
41. Members of the three Committees are due to meet again in September 2023.

Policing and mental health

42. On 18 May 2022, the Committee held a roundtable evidence session on policing and mental health. This considered the demands placed on the police service when dealing with people with poor mental health. It also considered how Police Scotland deal with people with poor mental health who are taken into custody, and the impact on the mental health of police officers and staff due to the demands being placed upon them in the course of their duties.
43. Following the evidence session, the Committee wrote to the then Cabinet Secretary for Justice and Veterans, Keith Brown MSP, to request that consideration be given to amending Section 297 of the Mental Health (Care and Treatment) (Scotland) Act (2003), which places a duty on police officers to remove the relevant person from a “public place” to a place of safety. The Committee also ask the Scottish Government to consider the suggested solutions arising from the Committee’s roundtable evidence session to reduce the impact on police resources when dealing with people requiring mental health assistance.
44. In September 2022, the Committee took informal evidence from six current and former police officers on the advice and support Police Scotland makes available to them when they requested assistance with their mental health and wellbeing. Following this, the Committee then wrote to Police Scotland and the Scottish Police Authority to highlight the issues raised by officers.
45. On 1 March 2023, the Committee took evidence from Professor Colin McKay from the Centre for Mental Health and Capacity Law at Edinburgh Napier University, on the criminal justice recommendations within the final report of the Scottish Mental Health Law Review.
46. In response to the Committee’s scrutiny of policing and mental health the Scottish Police Authority held two stakeholder conferences to consider the issues raised. The first on mental health demand and policing, and the second on workforce trauma.
47. The Scottish Police Authority also provided additional resources to assist police officers who retire due to mental ill health, and it agreed to undertake further work to better understand the nature and scale of the concerns police officers and staff have about the advice and support provided to them when they experience mental health and wellbeing issues.

Petitions

48. The Committee currently has two petitions as part of its work programme:

- [PE1370: Justice for Megrahi](#) – the petition calls on the Scottish Parliament to urge the Scottish Government to open an independent inquiry into the 2001 Kamp van Zeist conviction of Abdelbaset Ali Mohmed al-Megrahi for the bombing of Pan Am flight 103 in December 1988.

This petition is being kept open pending the conclusion of legal proceedings

- [PE1458: Register of Interests for members of Scotland's Judiciary](#) – this petition calls on the Scottish Government to create a Register of Pecuniary Interests of Judges Bill or amend present legislation to require all members of the Judiciary in Scotland to submit their interests & hospitality received to a publicly available Register of Interests.

49. These petitions were not looked at in this parliamentary year as there had been no developments that affected the reasons why the Committee was keeping them open pending further consideration.

