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## **Equalities, Human Rights and Civil Justice Committee**

# **Stage 1 Report on the Miners' Strike (Pardons) (Scotland) Bill**



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# Equalities, Human Rights and Civil Justice Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- a. matters relating to equal opportunities, and upon the observance of equal opportunities within the Parliament; and
- b. matters relating to human rights.
- c. matters relating to civil justice within the responsibility of the Cabinet Secretary for Justice and Veterans.

## 2. In these Rules

(a) “equal opportunities” includes the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions; and

(b) “human rights” includes Convention rights (within the meaning of section 1 of the Human Rights Act 1998) and other human rights as for example contained in any international convention, treaty or other international instrument ratified by the United Kingdom.



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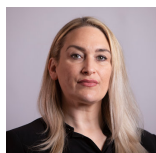
# Committee Membership



**Convener**  
**Joe FitzPatrick**  
Scottish National Party



**Deputy Convener**  
**Maggie Chapman**  
Scottish Green Party



**Karen Adam**  
Scottish National Party



**Pam Duncan-Glancy**  
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**Fulton MacGregor**  
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**Alexander Stewart**  
Scottish Conservative  
and Unionist Party

# Executive Summary

1. 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.
2. 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.
3. 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.
4. The Committee is keen to ensure, however, that in taking the above steps there is no delay in the proposed passage of the Bill.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.

10. 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.
11. 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.
12. Members of the Committee were not able to reach agreement as to whether the offences proposed in the Bill are adequate.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. The Committee heard powerful evidence both of the lasting psychological and economic impact the strike had on generations of communities. It heard 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.

19. 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.
20. 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.
21. The Committee would like to thank everyone who gave evidence on this Bill and would particularly like to thank the mining communities who took the time to share their experiences with us and the Coalfields Regeneration Trust and other organisations and groups for their assistance in facilitating those sessions. The evidence we heard was invaluable to our work.



## Introduction

22. [The Miners' Strike \(Pardons\) \(Scotland\) Bill](#) ("the Bill") was introduced in the Parliament by the Cabinet Secretary for Justice and Veterans, Keith Brown MSP ("the Cabinet Secretary"), on 27 October 2021. The Parliament designated the Equalities, Human Rights and Civil Justice Committee as the lead committee for Stage 1 consideration of the Bill.
23. Under the Parliament's Standing Orders Rule 9.6.3(a), it is for the lead committee to report to the Parliament on the general principles of the Bill. In doing so, it must take account of views submitted to it by any other committee. The lead committee is also required to report on the Financial Memorandum and Policy Memorandum, which accompany the Bill.

## Background

24. The miners' strike was an industrial dispute which started at a national level on 12 March 1984 when the National Union of Mineworkers (NUM) called on its members to stop work with the broad aim of preventing further UK pit closures by the National Coal Board (NCB). It ended on 3 March 1985 when NUM delegates voted to call off the strike.
25. The strike was a bitterly contested dispute and there were frequent clashes between the police and picketing mineworkers across the UK and Scotland. Miners were arrested for breach of the peace, assault and other offences and some were dismissed from their jobs.
26. In the years that followed the end of the strike, the main deep mines in the UK closed with the last deep mine in Scotland, Longannet in Fife closing in 2002. Mine closures and the associated job losses had a detrimental economic impact on coal mining areas. There were also questions raised about whether the strike had been policed in a fair way, whether the justice system had treated miners fairly and the way in which certain miners who were arrested were dismissed from their jobs.
27. Subsequently, there were various calls for a public inquiry into the policing of the dispute and the way in which it was handled by the courts. This was ruled out by the then UK Home Secretary in 2016. The Scottish Government also called on the UK Government to carry out a UK wide investigation into political interference during the dispute. Calls have also been made on the Scottish Government to carry out its own inquiry into the strike.
28. In 2018, the Scottish Government launched an Independent Review of the policing of the strike. The review specifically looked at the impact the policing had had on communities during the period from March 1984 to March 1985.
29. [The Independent Review's final report](#) was published in 2020. The report recommended that the Scottish Government should pardon people convicted of certain offences related to the strike. In October 2020, the Scottish Government announced that it had accepted in principle the Independent Review's recommendation on pardons but would give consideration to the qualifying criteria that might apply to the pardon.

30. In March 2021, the Scottish Government launched its [consultation into the qualifying criteria for the pardon](#). The consultation ran until 4 June 2021 and received 377 responses, of which 290 were published. [The analysis of the responses](#) was published on 17 August 2021. [The Policy Memorandum](#) includes a summary of this analysis at paragraph 52.
31. The Scottish Government published its [response to the consultation](#) on 13 September 2021. It stated that the findings from the consultative response indicated that there was broad support for the pardon and that the only relevant qualifying criteria should be the range of offences to be covered by the pardon.
32. According to the policy memorandum, the Bill is a recognition that the strike was divisive in many ways with miners and police officers finding themselves in challenging situations and relationships between police and communities put under unprecedented strain. The Scottish Government has outlined a vision for a “just, safe and resilient Scotland” and considers this Bill will help it realise that vision. However, it states that the pardon should not be considered as a criticism of how the strike was policed.

## General policy objectives of the Bill

33. The Bill largely follows the recommendation of the Independent Review with some changes to the qualifying criteria for the pardon.
34. The [Policy Memorandum](#) accompanying the Bill states that:
  - ” The policy intention of the Bill is that the effect of the pardon is intended to be symbolic and collective. The pardon symbolises a desire for truth and reconciliation, following decades of hurt, anger and misconceptions generated by one of the most bitter and divisive industrial disputes in living memory. It is recognised that many miners suffered disproportionate consequences for taking part in the strike and the pardon is intended to remove the stigma of any associated convictions
35. It states that an automatic pardon is in line with recent legislation on pardons, for example, the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018 and that there would be a lack of available records and evidence available to support a formal decision-making process on whether a person should be eligible for a pardon.
36. According to the Scottish Government, the Bill presents an opportunity to bring reconciliation between those who were upholding the law in circumstances they had never before encountered and those who were fighting to protect their jobs, livelihoods and communities.
37. Furthermore, it is recognised that that many miners suffered disproportionate consequences for taking part in the strike and the pardon is intended to remove the stigma of any associated convictions.

## Structure of the Bill

38. The Bill consists of six sections. The main provisions are as follows:-

- Section 1(1) provides for an automatic pardon for miners convicted of the offences listed in section 2 of the Bill subject to certain conditions (listed under section 1) being met. The conduct which gave rise to such a conviction must have occurred between 12 March 1984 and 3 March 1985.
- The conduct must have occurred during and in the course of a miner's participation at a picket line, demonstration or similar gathering supporting the strike. Alternatively, the offence must have resulted from conduct which occurred while a miner was travelling for the purposes of participating in a picket, demonstration or gathering supporting the miners' strike.
- The policy intention is not to pardon convictions relating to conduct which occurred at other locations in the wider community, for example an altercation between a striking and non-striking miner outside their home.
- Section 2 lists offences considered to be the most common offences committed during strike related activity. These are breach of the peace, the offence of breach of bail under section 3 of the Bail etc (Scotland) Act 1980 <sup>1</sup> and the offence under section 41(1)(a) of the Police Scotland Act 1967. <sup>2</sup>
- Section 3 of the Bill provides that the application of a pardon is not intended to quash any convictions nor create any new rights, liabilities or entitlements.
- Section 4 provides the meanings of key terms used in the Bill. The Scottish Government considers that the persons most adversely affected by the strike and the consequences of strike related convictions were the miners themselves. "Miner" is defined as also including surface occupations where the individual was employed by the National Coal Board (NCB) or the licensee of a private mine.
- "Miner" refers both to living persons and posthumously where the person meets the qualifying criteria for the pardon.
- Section 5 proposes that the Bill should come into force the day after Royal Assent.

## Equalities, Human Rights and Civil Justice Committee's consideration

39. The Committee undertook a call for written evidence between 3 December 2021 and 14 January 2022. It received 48 submissions. The written submissions are published on [Citizen Space](#).
40. The Committee began taking oral evidence on the Bill on 23 November 2021 when it heard from the Scottish Government's Bill Team.

41. It continued taking oral evidence during January and February 2022.
42. On [11 January 2022](#), it heard evidence from mining organisations and trade unions:
  - Nicky Wilson, President, National Union of Mineworkers in Scotland
  - Robert Young, Board Member, The Coalfields Regeneration Trust
  - Alex Bennett, Former Miner
  - Professor Jim Phillips, Professor of Economic and Social History, University of Glasgow
43. And then from police representatives:
  - Jim McBrierty, Immediate Past President, Retired Police Officers Association Scotland
  - Tom Wood, Former Deputy Chief Constable, Lothian and Borders Police
44. On 25 January 2022, the Committee held a virtual, private engagement session with former miners and their families to hear first-hand about their experiences and the impact the strike had on their communities. Notes from this session are published on our [webpages](#).
45. Finally, on [8 February 2022](#), the Committee took evidence from:
  - the Cabinet Secretary for Justice and Veterans, Keith Brown MSP and Scottish Government officials.
46. The Scottish Parliament Information Centre (SPICe) has produced a briefing on the Bill which is available online, which can be accessed [here](#).

## **Consideration by other committees**

47. The Finance Committee's main role is to consider whether the estimates in the financial memorandum appear to be robust. The Finance and Constitution Committee issued a call for evidence which closed on 20 December 2021. It received one written submission. The submission can be accessed [here](#). The Finance and Constitution Committee agreed to take no further action in relation to the Bill.
48. The Delegated Powers and Law Reform Committee advised the EHRCJ Committee that its remit was not engaged with the Bill and accordingly it would not be undertaking scrutiny at Stage 1.

# Key issues in the Committee's consideration of the Bill

## Pardons for miners convicted of certain offences committed during miners' strike

49. The Bill provides for an automatic pardon for miners convicted of the offences listed in section 2 subject to certain conditions listed under section 1 being met.
50. Firstly, the conduct which gave rise to the conviction must have occurred between 12 March 1984 and 3 March 1985 inclusive. Secondly, the conduct must have occurred during and in the course of a miner's participation at a picket line, demonstration or other similar gathering in supporting the strike or connected travel for the purposes of participating in a picket or demonstration.
51. The Committee heard strong support for the Bill and the pardon. Many witnesses including police representatives considered that the Bill provided a good mechanism to right a wrong and deliver justice. Witnesses from mining communities said it was long overdue and that it would provide a "clean slate" and allow communities to move forward.
52. Witnesses had differing views on an automatic pardon. Mining communities broadly welcomed it but many felt it should include everyone convicted. Tom Wood, formerly of what was then Lothian and Borders Police told us "people who were convicted of a simple push-shove breach of the peace and were thereafter sacked and blackballed, on balance, that was disproportionate"<sup>3</sup>. However, he voiced some reservation about a blanket pardon and was keen to ensure the balance was correctly struck so it did not include more serious offences.
53. Jim McBrierty of the Retired Police Officers Association Scotland echoed those concerns "I ask the committee to be careful that the reference to section 41(1)(a) is not seen to include the police assault aspects"<sup>3</sup>.
54. The Cabinet Secretary explained a blanket approach was proposed rather than an application process due to a lack of surviving evidence from police and court records from the time of the strike. He emphasised that he wanted to make the qualifying criteria for the pardon "as simple as possible so people are able to assess themselves whether the criteria are met without having to find documentary evidence"<sup>4</sup>.
55. However, some witnesses we heard from expressed a desire to see a formal process, such as a letter or written statement from the Scottish Government, to notify miners or surviving relatives that they qualify for a pardon. We heard that this may be particularly important for families of miners who have now passed away. There was a sense that having something official and tangible to demonstrate that their loved one had been pardoned would be particularly welcomed. Other witnesses suggested an online application process could be considered.
56. The Cabinet Secretary told us the Scottish Government was exploring this

possibility and what could be done. "The idea that people really have to know that they have been pardoned is an important point" he said <sup>4</sup>. He advised that the Scottish Government was investigating whether it could work with the National Union of Mineworkers to examine its surviving records and reach out to as many people as possible.

57. However, this process would clearly not capture all those who may fall within a pardon due to a lack of records. In some cases, therefore the Cabinet Secretary explained, the Scottish Government would have to rely on people getting in touch if it were to provide a written statement to them. Any written statement he told us would make it explicit to the family that the individual fell within the scope of the pardon.

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.

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.

## Definition of a Miner

62. Section 4 of the Bill defines some of its key provisions. The definition of a miner is a relatively wide one which covers both deceased miners and any miners employed by the NCB or a licenced person under the Coal Industry Nationalisation Act 1946 in any part of the UK at any time during the strike period. Miners from outside Scotland who were convicted in a Scottish court could be covered by the pardon provided they fulfil the other criteria in the Bill.

63. Former miners suggested that the definition of a miner may be too narrow and that the Scottish Government should consider broadening it to include those who supported miners on the strikes such as wives, family and friends, some of whom were charged and convicted. We heard persuasive evidence that the strike was

particularly difficult for women, the wives and daughters of miners, who took on huge responsibilities during the strike and their contribution needs to be recognised in some way.

64. The Cabinet Secretary advised that the Bill does not exclude women but that the Scottish Government has no evidence of females being convicted. He said from limited data obtained from Hansard in response to a parliamentary question about how many non-miners had been arrested in the first three months, the figure was 5%. This figure represented a mix of other occupations but accounted for arrests only. It was not known how many of those, if any, resulted in convictions, nor if that trend continued.
65. The Cabinet Secretary told us the Scottish Government and the independent review group considered at length the issue of broadening the scope but concluded those most directly affected were the miners themselves. He explained that the definition had been drafted to recognise that there might have been other people employed by the coal board or licensed under the Coal Industry Nationalisation Act 1946 who could meet the pardon criteria.
66. The policy intention of the Bill, he said, is to capture people who worked underground or at the surface of the coal mine and at the larger workshops located outwith coal mines which were used to maintain and repair mining equipment and machinery. "I think that you can draw a line regarding people whose livelihoods were directly related to the mine and under threat because of the strike itself"<sup>4</sup>. His view was that extending the definition could be problematic because of the poor quality of the evidence available. However he remained open to further discussions and told us "We think we have struck the right balance in relation to that but we will listen to representations".
67. He also voiced concerns that, the more the scope is widened to cover areas in which less supporting evidence is available, the less value the pardon itself will have.

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.

## Scope of the Bill

70. This was an area that the Committee explored extensively in evidence both in relation to Section 1, where certain offences took place, and Section 2 types of

offences which are covered under the Bill.

## Section 1 – pardon limited to picketing and connected travel

71. Under Section 1(1) of the Bill the pardon only applies where the conduct constituting the offence occurred between 12 March 1984 and 3 March 1985 and the conduct either:
- Occurred while the miner was participating in a picket, demonstration or similar gathering supporting the miners' strike (section 1(2)), or
  - Occurred while the miner was travelling to participate in, or travelling from, a picket, demonstration, or other similar gathering supporting the miners' strike, and was directly related to the miner's intended or actual participation in the picket, demonstration or other similar gathering (section 1(3)).
72. Accordingly, offences which did not occur on, or travelling to, the picket line during the period of the strike will not be covered by the pardon.
73. We heard evidence from mining communities that consideration should be given to the scope of the Bill being extended to include arrests as a result of conflict linked to the strike that occurred in community settings, as well as on the picket line and related travel. They said the divisive nature of the strike had a much wider impact and many people associated with the strike were also victims of harassment or became involved in conflict due to their family members being on strike or choosing to work. They knew of men who deserved a pardon but would not be covered by the Bill as they were not on the picket when arrested.
74. Professor Phillips told us “many of the arrests took place within communities. That is one area of the Bill on which I have a slight reservation. The Bill does not make provision for miners who were convicted after incidents in communities and that is an important deficiency”<sup>3</sup>.
75. He said many incidents, for example, arguments between individuals outside houses or shops, resulted from tensions and conflicts that were introduced to mining communities by the actions of the National Coal Board”<sup>3</sup> He continued. “Looking at events in the long run it is remarkable how restrained miners and their families were individually and collectively when faced with that level of stress”<sup>3</sup>. He said it was important for us to appreciate that it was “a highly abnormal social situation” with communities “defending their economic future”<sup>3</sup>.
76. Professor Phillips thought the Bill may create a “hierarchy of justice” where those seen as deserving of justice were miners who were arrested on picket lines and those undeserving of justice were those who got into fights with strike breakers in the street.
77. Nicky Wilson supported an extension of the scope and described “spontaneous demonstrations” when people found out that someone who had been on strike returned to work and there was a reaction to that within the community by other members of the miner's family which resulted in arrests. He told us the union kept a record of those arrested in on the picket line but not those arrested in communities.
78. Police representatives described “flashpoints” that happened in the streets around



pickets. These sometimes took the form of spontaneous demonstrations.

79. Written evidence from Thompsons solicitors argued that section 1(2) and 1(3) should be amended to cover participation in “activities connected with the miners’ strike”. The Law Society considered that the terms “other similar gathering” and “travel to and from a picket” in section 1(3) are vague and require clarification.
80. The Cabinet Secretary told us he would listen to representations made about extending the pardon to actions associated with the strike but which occurred in the community. However, he said “based on the consultations that we have had I think that there would be a lot less sympathy when it comes to offences such as street fights, intimidatory conduct, violence or damage to property”<sup>4</sup> He went on “the point about the picket line is that the miners’ conduct on a picket line or demonstration or when going through a community to attend one of them was directly related to support for saving jobs rather than an action borne out of anger or retribution against an individual”<sup>4</sup>
81. He reasoned that moving away from collective situations such as demonstrations, rallies and picket lines made it difficult to establish the motivation of certain conduct. There was also a lack of records to make an assessment of the circumstances that gave rise to any of the convictions.<sup>4</sup> It would be possible, therefore, that a pardon could be extended for serious assaults and intimidation of people. “That is why we think that the right way is for the Bill to be about the miners who were most directly affected and what happened on the picket lines in defence of their jobs and communities”<sup>4</sup>.

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.

## Section 2 – offences covered by the pardon

85. Section 2 of the Bill defines the offences which will be covered by the pardon:-
  - Breach of the peace

- An offence under Section 3 of the Bail etc (Scotland) Act 1980 (breach of bail conditions)
  - An offence under Section 41(1)(a) of the Police (Scotland) Act 1967 (obstructing the police).
86. The policy memorandum notes that these “are considered to be the most common offences committed during strike-related activity”. The Committee explored whether the list of offences was adequate.
87. The offence under section 41(1)(a) of the Police (Scotland) Act 1967 was not included in the criteria proposed by the Independent Review but was suggested by respondents to the Scottish Government’s consultation. An offence under this Act criminalised assaulting, resisting, molesting, obstructing or hindering a constable in the execution of their duty and this would cover “pushing and shoving” between miners and police.
88. The policy memorandum explains that the section 41(1)(a) offence would often be charged alongside breach of the peace and accordingly it would not make sense to restrict the pardon to the offence of breach of the peace. Police representatives commented that offences under Section 41(1)(a) could include more serious offences than obstruction. However, we heard that the offence would not ordinarily cover more serious assaults on the police as those were prosecuted as common law assault. The Committee is satisfied therefore that more serious offences are not included within the scope of the pardon.
89. We received written evidence suggesting section 2 should also cover offences under the Conspiracy and Protection of Property Act 1875 which could cover the encouragement of people to take part in offences. Thompsons solicitors said the current section 2 offences will not grant a pardon to those convicted of an offence under the 1875 Act. We noted however that arrests under this Act accounted for around 1% of the convictions with 95% covered under the listed offences.
90. The Cabinet Secretary told us in respect of the 1875 Act that to include those would make the net too wide and it would be difficult to determine motivation of conduct. He told us the Scottish Government had gone beyond the recommendation from the independent review group but did not consider that it would be right to extend the pardon to convictions under the 1875 Act where details could not be confirmed due to a lack of records.
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.

# Other issues considered by the Committee but not provided for in the Bill

## Compensation

94. The Bill does not provide for compensation for miners and the Committee heard views both for and against awarding compensation to those eligible for a pardon. Some witnesses including the NUM argued that, for many individuals, this was their one and only conviction and, as a result, they were criminalised, which impacted their future opportunities. We heard from former miners that many missed out on employment rights such as redundancy payments and pensions.
95. Nicky Wilson questioned whether the Bill should include a mechanism for compensation for the men who were sacked. "There is a big injustice lurking in the background on compensation" he said "perhaps the committee could see whether it is feasible for those 206 men or their families in the case of the ones who are deceased to be compensated in some way"<sup>3</sup>
96. He explained that many were blacklisted by a number of firms for a number of years and that some lost their employability and pension rights and even those who won at tribunal were not reinstated. "It would be a brilliant, brave and progressive step if the Scottish Parliament made the decision to put in place a compensation scheme for the remaining miners who are still alive and the families of those who have sadly passed away"<sup>3</sup>
97. Alex Bennett told us that some families received quite substantial redundancy payments but the families of miners who were sacked got nothing.
98. Those who were not in favour of compensation asked how this could be calculated and reflected that symbolic healing was all that could be offered. Tom Wood asked "What would compensate for that kind of hurt? For such a grievous wound to their lives. How much are we talking about? How do we put pounds, shillings and pence against that?"<sup>3</sup>
99. The Cabinet Secretary told us that compensation would not be consistent with the self-assessment associated with the pardon in the bill and that it would move the Bill away from having a symbolic effect into the territory of questioning decisions that were made by the judiciary at the time. "We are not doing that, we are not quashing convictions, we do not have the ability to look back in time"<sup>4</sup>
100. In addition, he explained that a compensation scheme would run the risk of creating a precedent for pardons that are granted in the future. Other legislation for pardoning convictions such as the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018<sup>5</sup> did not offer compensation so there would also be a risk of legal challenges.
101. Furthermore, he told us the Scottish Government was not the employer as it did not exist at the time. As industrial relations are reserved to the UK Government, he explained that any compensation scheme for loss of earnings, pension or other

rights would be for the UK Government to consider. “We have pressed and will continue to press the UK Government to hold a full public inquiry. That is the place for such issues to be addressed. For us, we think the pardon is a reasonable measure to try to introduce some reconciliation in communities that were driven apart during the strike”<sup>4</sup>.

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.
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 role of the police and administration of justice

105. The Committee heard conflicting evidence on the role of the police and the judiciary during the strikes. Miners told us this was often the only time they were arrested, that they felt there was inconsistency in policing and that due process was not consistently followed. Many described a power imbalance between the miners and the authorities.
106. Robert Young and other witnesses described an escalation in clashes between miners and police and arrests over several months. He said “as soon as the policing was changed – the Fife police were taken away and police from Edinburgh and Glasgow were put in their place, the whole situation changed dramatically. That is when the conflict started”<sup>3</sup>.
107. Alex Bennett told us the strike started in March 1984 but arrests only started in June. He agreed this was as a result of police arriving from outside who came to police the picket and who made “mass arrests” by “snatch squads” picking out individuals. He believes he and other individuals were targeted due to their associations with the trade union<sup>3</sup>.
108. He described being arrested at Bilston Glen colliery, the only time he was arrested in his life and us two weeks later he was in court, fined £100 and received his P45

- from the manager of the pit telling him he was summarily dismissed.<sup>3</sup>
109. The police organisations described a similar escalation. Jim McBrierty explained that there were “infiltrators” and that was “when the mood changed”. However, Tom Wood told us that the operational commander made a decision not to wear protective equipment as this would escalate things and they knew they would have to go back and police those communities with consent. “I come back to the fundamental point that we had an absolute duty to protect the rights of people to go about their business unmolested and that duty has not changed”<sup>3</sup>
110. Robert Young told us that out of around 130 people arrested at Cartmore, only two including him were sacked. He believes that it was due to their being contributors to the NUM. He described the psychological impact of the strike on families who had been without income for eight or nine months. “You might wonder why there was trouble in the streets in November or December after we had been on strike for eight or nine months. People had lost their holidays and there was no money coming in. You have to understand the psychological effect that was having”.<sup>3</sup>
111. Professor Phillips was of the view that the conflict was imposed from outside mining communities by policy makers at a UK level and by employers. “Specifically, the coal board was providing organised transport and co-ordinating activity with the police. It was behaving in highly provocative ways at the time”<sup>3</sup> He also spoke of “very strong circumstantial evidence of collusion between the police and the coal board officials” He told us “the criminal justice system clearly worked as a strikebreaking and disciplining measure. It supported the coal board’s victimisation of trade unionism and trade unionists”<sup>3</sup>
112. He went on to explain that miners were compelled to plead guilty in order to return to the picket line resulting in 800 convictions which were in effect false confessions or pragmatic exercises by miners to avoid periods of detention on remand so they could continue to support their communities. He said “there was a thoroughly anti-trade union atmosphere within which criminal justice was exerted against the strikers. It was a sorry episode”<sup>3</sup>
113. Others described differences in policing methods dependent on the area. Nicky Wilson told of mass arrests taking place at Cartmore, Hunterston, Ravenscraig and Bilston Glen but in other areas there was an understanding between police and striking miners and no arrests.
114. However, we heard that miners in Scotland were twice as likely to be arrested and three times more likely to be dismissed. Many of the arrests and sackings were disproportionate to the offence committed and this was acknowledged by police organisations. Miners told us they felt victimised and criminalised. Others felt it was time for a Scotland led inquiry into the policing and management of the strike.
115. One former miner felt the police responded to calls for protection from working miners but failed to protect those on strike. Tom Wood refuted this and explained that everyone should have received the same service from the police. “If, on occasions, somebody did not get the same service as others that was a failure. However, that was nothing to do with policy. That is the point”<sup>3</sup>
116. The suggestion that there was any collusion between the police and the National

Coal Board was also rejected by police representatives. Tom Wood said. "I just cannot imagine any of them taking direction or encouragement from the coal board"[10] There was no direction and no collusion. Nor was there collusion between the coal board or the Procurator Fiscal Service. They were fiercely independent. "The thought that they would take direction from or be influenced by members of the coal board or anybody else is incredible in the true sense of the word" <sup>3</sup>

117. Jim McBrierty agreed that there was nothing underhand "We policed it in the way we thought was appropriate in order for us to return to the communities that we policed on a daily basis" he said <sup>3</sup>
118. Targeting of individuals was also rejected by the police representatives. Tom Wood said "there was no arrest policy per se. One reason why officials were arrested was because they are truly leaders. They were trying to show their leadership so they were on the front line Given that they were on the front line they were the first to be grabbed. It is as simple as that" <sup>3</sup>
119. Tom Wood agreed it was a job that the police did not want to do and that many police on duty were from mining communities themselves. We heard of the impact the strikes had on their own families and divisions it caused. He spoke of the broadly good relationships police had with communities but that matters escalated over time. He said lessons needed to be learned about what happened to those communities who were experiencing desperate circumstances.
120. We also heard the media coverage was often misleading. Tom Wood told us "The media kept showing pictures from England and Orgreave with horses charging and running fights None of that ever happened at Bilston Glen or in the rest of Scotland to my knowledge <sup>3</sup> The flash points came on the picket line when there were visiting pickets. The flash points off the picket line were just as important because they involved the families of striking miners and working miners – in housing and streets around the mining communities <sup>3</sup> .
121. Against this background, the Committee explored with the Cabinet Secretary whether a Scotland only inquiry should be considered into the policing of the strike. His strong view was that as the Scottish Government and Parliament did not exist and policing was not devolved at the time, the Scottish Government would not be in a position to examine issues that do not fall within the competence of the Scottish Parliament. He told us "if we tried to hold an inquiry without that evidence it would undermine the calls that I have made for the UK Government to hold an inquiry".
122. He said the Scottish Government does not have the police records so these could not be looked at with the vigour of a public inquiry. "On the outstanding questions about the policing and management of the strike and its political aspects, I believe the right focus for that is the UK Government".
123. The Cabinet Secretary told us that he did not have enough evidence to make a judgement on what the policing was like or where it fell down but that miners were trying to defend their communities, their way of life and their livelihoods and that led to some of the situations that happened on picket lines.

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.

## Lasting impact on communities and additional action to consider

126. Mining communities spoke of the lasting impact of the strike and that some communities have never fully recovered from its psychological and economic effects.
127. Nicky Wilson explained that this strike differed from earlier ones in that “people in our industry knew that we were fighting for our very survival. We had seen what happened to communities when a pit closed, there were ongoing adverse effects on close knit communities.”<sup>3</sup>. Others spoke of the impact on families and breakdown of family relationships, marriages and a lasting mistrust of the police. “There was a lasting effect” Alex Bennett said “Families were split down the middle”<sup>3</sup>
128. We heard of the significant economic impact at the time of the strikes where towns and villages were left “hollowed out”, skilled workforces left to go to waste, businesses closed and deprivation allowed to set in. There was continued lack of investment. Witnesses described how a pit would be closed but it was not replaced by other forms of employment. Robert Young told us about the impact on small villages surrounding the pit where shops, clubs and pubs also shut after the pit was closed.
129. However, it was clear that community ties remain strong. Professor Phillips told us that “people within those communities are still very cohesive, progressive and positive about the present as well as the future. People are not looking back all the time but are determined to see justice for the wrongs that were committed against their communities in the past. They are good places and good people live there. I am proud to have friends in those communities”<sup>3</sup>
130. Nicky Wilson spoke positively about the work of the Coalfields Regeneration Trust “There is an in born strength in mining communities” he told us “it is more inherent than in other communities because miners went to work together, looked after each other and looked after the families that were in need. That still exists to this day”<sup>3</sup>

131. Tom Wood described how, following the strike, many of the leaders entered local politics and became long-serving councillors who did “an enormous amount of good work in local communities” and with whom the police worked closely. He said “It grieves me that almost 40 years later there are still divisions between us because there is an awful lot more that joins us than divides us. I place on record what a remarkable job the men did after their strike through their contribution to public life”  
3
132. Communities told us that the pardon is a welcome step in the right direction but that it should only be seen as part of the solution to rebuilding the mining communities affected. The weight of evidence suggests that more still needs to be done to assist those communities.
133. The Cabinet Secretary recognised the lasting impacts that convictions had had on communities particularly for those who had never been arrested before or since. He told us the pardon will have an impact in recognising and removing the shame and stigma that some individuals still feel about the convictions. He acknowledged a continuing obligation to the mining communities and told us the Scottish Government support the work of the Coalfields Regeneration Trust.
134. He explained that the annual grant is £754,000 this year which will help “to fund grassroots activity that tackles issues associated with poverty in communities”<sup>4</sup>.
135. In terms of rebuilding and reorganising communities, the Cabinet Secretary acknowledged that work must continue with communities and that Scottish Government intend to continue to support the Coalfields Regeneration Trust. He said the Bill is not the correct mechanism for this additional work.
136. He acknowledged however, that more could be done and said he was happy to listen to suggestions. He said that the Bill, if it passes, will bring additional awareness across the country but committed to seeing what else could be done to try to address the psychologically scarring effects of the strike. He emphasised that the Scottish Government would continue to put pressure on the UK Gov to take responsibility “not to blame current members for things that happened in the 1980’s but the Government has a responsibility to address some of the issues of concern”.  
4
137. Mining communities told us that they would like the Committee and the Parliament not to forget about mining communities after the Bill is passed. They did not want a “hand out” but a “hand up”. It was clear from our evidence that they are proud and close-knit communities who feel they have been taken for granted in the past and they want that to change. They told us they wish to maintain their communities and their heritage and to reclaim their history. Many emphasised the need for a UK or Scotland-led inquiry. Others welcomed the Bill but sought a statement in Parliament to provide recognition of what communities suffered and the importance of a pardon.
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.

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.

## General principles

140. The Committee supports the underlying intention behind this Bill to provide an automatic pardon to miners who were convicted of offences during the 1984-1985 strike.
  141. The Bill will go some way to alleviating the psychological and economic impact that mining communities have lived with for generations.
  142. As our report makes clear though, the Committee believes that more work is required to help these close-knit communities recover fully from this very difficult period. Our evidence suggests that communities have felt ignored and forgotten for many years. This Bill will provide a clean slate and begin the healing process but should be seen as only part of the solution.
  143. The Committee is keen to ensure that in taking any further steps or addressing this the recommendations made in this report, there is no delay in the proposed passage of the Bill.
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.

# Annexe

The Committee received written evidence from organisations and individuals during the course of its Stage 1 inquiry. Submissions which have been accepted as written evidence by the Committee have been published online:

[https://yourviews.parliament.scot/ehrcj/miners-strike-pardons-bill/consultation/published\\_select\\_respondent](https://yourviews.parliament.scot/ehrcj/miners-strike-pardons-bill/consultation/published_select_respondent)

Minutes and the Official Reports from the relevant Committee meetings where oral evidence was taken can also be found online for:

- [11 January 2022](#)
- [8 February 2022](#)

- [1] Bail etc. (Scotland) Act 1980. (1980). Retrieved from <https://www.legislation.gov.uk/ukpga/1980/4/section/3/enacted>
- [2] Section 41(1)(a) Police Scotland Act 1967. (1967). Retrieved from <https://www.legislation.gov.uk/ukpga/1967/77/section/41/enacted>
- [3] Scottish Parliament. (2022, January 11). Official Report of the Equalities, Human Rights and Civil Justice Committee. Retrieved from <https://www.parliament.scot/chamber-and-committees/official-report/what-was-said-in-parliament/EHRCJ-11-01-2022?meeting=13509>
- [4] Scottish Parliament. (2022, February 8). Official Report of the Equalities, Human Rights and Civil Justice Committee. Retrieved from <https://www.parliament.scot/chamber-and-committees/official-report/what-was-said-in-parliament/EHRCJ-08-02-2022?meeting=13583>
- [5] Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018. (2018). Retrieved from <https://www.legislation.gov.uk/asp/2018/14/contents/enacted>



