

## Justice Committee

### Criminal Justice (Scotland) Bill

#### Supplementary written submission from the Law Society of Scotland

I refer to the oral evidence session on 1 October at which Grazia Robertson provided evidence on behalf of the Law Society of Scotland on the general principles of Part 1 of this Bill. At the end of this session, you invited supplementary points.

Unfortunately, there was no opportunity for Mrs Robertson to address the Committee upon Section 14 of the Bill.

This has been brought into sharper focus given the position of Police Scotland who stated that 28 days would potentially be restrictive as an absolute time limit.

The Law Society of Scotland is also concerned with regard to the period of 28 days but notes Lord Carloway's Report where he recommended that the period of liberation on conditions should be limited to a maximum of 28 days. The Society believes that any time period fixed should be a period up to a maximum of 28 days as opposed to the blanket 28 day period as is provided for in the Bill.

The Society believes that there is advantage in allowing a shorter period of investigative liberation upon which a person can be released from custody in that more onerous conditions of investigative liberation may be accepted on the basis that a lesser period is being provided for.

This will also have the advantage of there being fewer applications for a review of conditions as provided for in terms of Section 17 of the Bill.

With regard to Section 17 of the Bill, the Society welcomes the review of conditions before the Sheriff but suggests that the time period should also be subject to review.

Section 17 does not provide for a time period within which a review should be undertaken and the Society accordingly suggests that a review should be undertaken within 48 hours of an application being made in writing to the Court and that where a Review Hearing has been fixed, the Crown must provide the person who is subject to a condition imposed under Section 14(2) of the Bill or his or her agent full written details of the evidence relating to the case as at the date of the hearing and that such a summary of evidence should be provided to the person or his or her agent prior to the hearing to review special bail conditions.

The Society also highlights the practical issues of securing the simultaneous attendance at a police station of the police officer, solicitor, person suspected and in some cases, appropriate persons and/or interpreters.

The Society further highlights the Legal Aid implications for this new procedure of investigative liberation and review and would welcome clarification in this regard.

I trust that these further comments will be of benefit to members of the Justice Committee.

Alan McCreadie  
Deputy Director, Law Reform  
9 October 2013