

Justice Committee

Carloway Review of Scottish Criminal Law and Practice

Letter from the Cabinet Secretary for Justice to the Convener

Thank you for your letter of 26 January providing the Committee's observations following its evidence-taking in relation to Lord Carloway's review of criminal law and practice.

I would like to commend the Committee for its prompt action, which has energised debate on the Carloway Report. To have gathered such an impressive panel of witnesses and a substantial body of written and oral evidence so swiftly after the Report's publication is a worthy achievement.

As I remarked during the Parliamentary debate on 1 December last year, I do not regard the status quo as a tenable option. Nor did Lord Carloway. Your letter outlines some of Lord Carloway's recommendations and provides a very helpful summary of the views of witnesses. Many points of great substance have been made - both in the Report and in subsequent comment - and there is clearly a substantial range of issues on which further discussion is required.

My view is that Lord Carloway's recommendations provide us with a far sighted basis for future reform. My wish is to take forward the recommendations as a package; something which I think has resonance with your point about the need for reform to be holistic and comprehensive.

I think that the founding principle here should be to proceed on the basis of Lord Carloway's recommendations. They provide a clear and coherent package of reform and many of the proposals have already been widely accepted. This is not, of course, intended to limit the scope for further debate and consideration. My intention is to launch a consultation in the spring, based around Lord Carloway's recommendations, but also reflecting points made in the ongoing public debate.

I think that your letter provides a strong assessment of the areas most likely to require further discussion. These issues need to be addressed, and I look forward to engaging with the Committee, interested stakeholders and the public in ensuring that reform, when it comes, is carried out on the soundest possible basis.

After carrying out substantial research and consultation Lord Carloway has highlighted a number of deficiencies and inconsistencies in our criminal law and there is clearly a need to address these sooner rather than later. I note that the Faculty of Advocates has called for a further review on aspects of Carloway in the form of a Royal Commission. I do not consider that the case has been made for such an approach. It seems to me that we have a clear package of reform before us. Further debate is required, but I am not convinced that it should be in the format of a Royal Commission or a reference to the Scottish Law Commission.

Thank you once more for your letter. I am grateful to the Committee and to the witnesses for the contributions so far and look forward to further debate on the historic reforms in prospect.

Kenny MacAskill MSP
Cabinet Secretary for Justice
20 February 2012