

Cabinet Secretary for Justice

Michael Matheson MSP

T: 0300 244 4000

E: scottish.ministers@scotland.gsi.gov.uk



Christine Grahame MSP
Convener, Justice Committee
c/o Justice Committee Clerks
Room T2.60
The Scottish Parliament
Edinburgh
EH99 1SP



2nd December 2015

Dear Christine,

In discussing the matter of Independent Legal Representation (ILR) for complainers in relation to sexual offences during Stage 2 of the Criminal Justice Bill, I advised the Committee that I considered a better understanding of the current use of related legislation was required (sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995).


While I remain unconvinced that ILR is a necessary step, I believe it is important that any discussion about such significant changes to Scots law are based on a thorough understanding of how the system operates at present. Unfortunately, in relation to sections 274 and 275, justice organisations do not specifically record the number of applications made nor their disposals. We therefore do not have an understanding of how often these provisions are used, and how often they are granted.

To help gain such an understanding, I confirm that a small research project will be taken forward to review the usage of these provisions. I have requested COPFS and SCTS to undertake a short monitoring exercise which will initially last around 3 months. Once sufficient information is available we will develop our consideration of any further analysis required with interested parties, both from the legal system and from victims' organisations.

As I mentioned at Committee, it will be timely to undertake this work now so it can be considered alongside the wider criminal justice reform project. This wider work will also give consideration to Lord Bonomy's recommendations, the requirement for corroboration reform and any other relevant issues.

Following this exercise, we will have gained a greater evidence base of the volumes and disposals of cases involved. It will then of course be a matter for the Scottish Government elected in May to consider what additional research, if any, may be appropriate to ascertain how sections 274 and 275 are being applied by the courts and how this relates to the wider criminal justice reform project.

I hope the above information is helpful to the Committee.

Best wishes


MICHAEL MATHESON