



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE COMMITTEE

AGENDA

4th Meeting, 2016 (Session 4)

Tuesday 26 January 2016

The Committee will meet at 10.00 am in the David Livingstone Room (CR6).

1. **Decision on taking business in private:** The Committee will decide whether to take item 5 in private.
2. **Community Justice (Scotland) Bill:** The Committee will consider the Bill at Stage 2 (Day 2).
3. **Scottish Human Rights Commission:** The Committee will take evidence from—

Professor Alan Miller, Chair, Scottish Human Rights Commission.
4. **Subordinate legislation:** The Committee will consider the following negative instrument—

Management of Offenders etc. (Scotland) Act 2005 (Specification of Persons) Amendment Order 2015 (SSI 2015/431).
5. **Work programme:** The Committee will consider its work programme.

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The papers for this meeting are as follows—

Agenda item 2

[Community Justice \(Scotland\) Bill and all associated documents](#)

Agenda item 3

Paper by the clerk

J/S4/16/4/1

Private paper

J/S4/16/4/2 (P)

Agenda item 4

Paper by the clerk

J/S4/16/4/3

[Management of Offenders etc. \(Scotland\) Act 2005 \(Specification of Persons\) Amendment Order 2015 \(SSI 2015/431\)](#)

Agenda item 5

Private paper

J/S4/16/4/4 (P)

Private paper

J/S4/16/4/5 (P)

Justice Committee

4th Meeting, 2016 (Session 4), Tuesday 26 January 2016

Scotland's National Action Plan for Human Rights

Note by the clerk

Purpose

1. The purpose of this item is to take evidence on Scotland's National Action Plan (SNAP) for Human Rights, from Professor Alan Miller, Chair of the SNAP Leadership panel. Professor Miller will shortly vacate the Chair of the Scottish Human Rights Commission, which he has occupied since its inception in 2008 and there is the opportunity during the session to take evidence more generally on the work of the SHRC.

Scotland's National Action Plan on Human Rights

2. [Scotland's National Action Plan for Human Rights 2013-17](#), launched in December 2013, describes itself as "a roadmap for collective action, right across Scotland, to make all human rights a reality for everyone". The plan is based on research carried out by the SHRC and was developed by a drafting group from the public and voluntary sectors. It sets out three outcomes ("better culture", "better lives" and "better world"), supported by nine priorities, working towards seven specific changes (also referred to in SNAP as outcomes) by 2030. These are:

- Each of us is empowered to understand and embrace the value of human rights, asserting them in all parts of our lives.
- Each of us can participate in shaping and directing decisions that affect our human rights.
- Organisations providing public services contribute to a human rights culture by valuing and putting human rights at the heart of what they do.
- Scotland increasingly implements its international human rights obligations, influences and learns from international experience and promotes human rights in all of its international engagements.
- All organisations are held to account for the realisation of people's rights through international and domestic laws, regulation and monitoring.
- Each of us has access to and can enjoy quality public services, which respect our dignity, irrespective of who we are or where we live.
- Each of us experiences improved opportunities and life outcomes whilst Scotland experiences an overall reduction in inequality of opportunity and outcomes.

3. The people involved in SNAP are organised into four different groups:

- five Action Groups to identify and agree the long-term changes the SNAP is working towards;
- a Leadership Panel drawn from Scottish civic life, which will issue annual reports to the Scottish Parliament (the latest, published December 2015, will be considered by the Committee at the evidence session);
- a Monitoring Progress Group of experts in evaluating and monitoring, and
- a Reference Group of people with personal experience of poverty.

The Scottish Human Rights Commission

4. The SHRC came into being under the Scottish Commission for Human Rights Act 2006, introduced by the then Scottish Executive. The Executive originally intended that there be a single Human Rights Commissioner, but following representations from the then Justice Committee, the Executive modified its policy to provide that the SHRC should comprise a Chair and up to four additional Commission Members.

5. Under the 2006 Act, the Commission has a general duty to promote awareness, understanding and respect for all human rights - economic, social, political, cultural and civil - to everyone, everywhere in Scotland, and to encourage best practice in relation to human rights. It has several powers:

- to conduct inquiries into the policies and practices of public authorities
- to provide education, training and awareness raising, including publishing research
- recommending changes to Scottish law, policy and practice
- intervening in some civil court cases, where relevant to human rights and where there is a public interest
- entering some places of detention, as part of an inquiry

6. The SHRC is required to lay before Parliament a [strategic plan](#) covering a four year period which sets out policies, projects and objectives for the period including timetables and estimates of costs. It must also lay an [annual report](#) before Parliament, summarising activities undertaken.

7. The SHRC is funded by the SPCB, but is independent of the Parliament, SPCB and Scottish Government and is not subject to these bodies' direction or control in the exercise of its functions. For 2015-16, the SHRC budget is £952,000.

Committee work

8. The Committee held an evidence session on SNAP with the SHRC on 18 February 2014. During the evidence session, Professor Miller suggested a number of areas in which the Committee could develop its work in relation to SNAP.

9. The Committee subsequently agreed to appoint John Finnie as SNAP rapporteur. The role of the rapporteur is to engage with the SNAP leadership panel and meets every six months. In practical terms, this involves the rapporteur meeting a member of the SNAP Leadership Panel twice a year. The Committee has received regular public updates from Mr Finnie on his liaison with the Panel.

10. The Committee agreed in December to bid for a debate on human rights, to take place following the publication of the latest SNAP annual report. That bid was successful and a debate is likely to take place in February.

Justice Committee

4th Meeting, 2016 (Session 4), Tuesday 26 January 2016

Subordinate legislation

Note by the clerk

Purpose

1. This paper invites the Committee to consider the following negative instrument:

**Management of Offenders etc. (Scotland) Act 2005 (Specification of Persons)
Amendment Order 2015 (SSI 2015/431)**

Introduction

2. This instrument is made under section 10(3) of the Management of Offenders etc. (Scotland) Act 2005
3. The instrument comes into force on 31 March 2016.
4. Further details on the purpose of the instrument can be found in the policy note (see below). An electronic copy of the instrument is available at:
<http://www.legislation.gov.uk/ssi/2015/431/contents/made>

Consultation

5. The policy note on the instrument states that an advisory group comprising representatives of the responsible authorities (Police Service of Scotland, Scottish Prison Service, Social Work Scotland) was established in spring 2014 under a remit to advise the Scottish Government on options to extend multi-agency public protection arrangements (MAPPA) to certain offenders posing a risk of serious harm other than the two categories (sex offenders and restricted patients) already covered, and to support planning for future implementation subject to parliamentary approval of the relevant provisions. The Risk Management Authority, COSLA, MAPPA coordinators and NHS mental health practitioners were also represented.

Delegated Powers and Law Reform Committee consideration

6. The Delegated Powers and Law Reform (DPLR) Committee considered this instrument at its meeting on 12 January 2016 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit. However, the DPLR Committee noted that SSI 2015/431 replaced the provisions of the Management of Offenders etc. (Scotland) Act 2005 (Commencement No. 8 and Consequential Provisions) Order 2015 (SSI 2015/397)¹. The Scottish Government confirmed to the DPLR Committee in relation to that Order that in its view it is of no legal effect, and undertook to lay the corrective instrument.

¹ Scottish Parliament Delegated Powers and Law Reform Committee. 4th Report, 2016 (Session 4): Subordinate Legislation. Available at:
www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/95515.aspx

Justice Committee consideration

7. If the Committee agrees to report to the Parliament on this instrument, it is required to do so by 8 February 2016.
8. Further details on the procedure for negative instruments are set out in Annexe A of this paper.

Policy Note: Management of Offenders etc. (Scotland) Act 2005 (Specification of Persons) Amendment Order 2015 (SSI 2015/431)

1. The above instrument is made by Scottish Ministers in exercise of the powers conferred by section 10(3) of the Management of Offenders etc. (Scotland) Act 2005. It is subject to negative procedure.

Policy Objectives

2. Section 10 of the Management of Offenders etc. (Scotland) Act 2005 (the 2005 Act), requires the Police, Local Authorities, Health Boards and the Scottish Prison Service as the Responsible Authorities to establish multi-agency arrangements to assess and manage the risk posed by certain categories of offender. Commencement of relevant sections has taken place in respect of registered sex offenders and mentally disordered restricted patients.
3. The Multi-Agency Public Protection Arrangements (MAPPA) provide these arrangements through guidance issued by Ministers under section 10(6) of the 2005 Act. The purpose of MAPPA is public protection and the reduction of serious harm. MAPPA aims to achieve this by providing a framework for agencies to share information, jointly assess risk and apply resources proportionately to manage the risk of serious harm posed to the public by relevant offenders.
4. An Order to commence section 10(1)(e) of the 2005 Act was laid on 17 December 2015. This will include in the multi-agency arrangements from 31 March 2016 those offenders who, by reason of their conviction, are assessed by the responsible authorities as posing a risk of serious harm to the public.
5. This Order makes an amendment to the Management of Offenders etc. (Scotland) Act 2005 (Specification of Persons) Order 2007. This provides that when section 10(1)(e) of the 2005 Act comes into force, those providing services to the responsible authorities share information with them in the assessment and management of offenders subject to that provision.

Consultation

6. An advisory group comprising representatives of the responsible authorities (Police Service of Scotland, Scottish Prison Service, Social Work Scotland) was established in spring 2014 under a remit to advise the Scottish Government on options to extend MAPPA to further offenders posing a risk of serious harm, and to support planning for future implementation subject to parliamentary approval of the relevant provisions. The Risk Management Authority, COSLA, MAPPA coordinators and NHS mental health practitioners were also represented.

7. Regular meetings of the advisory group took place over 2014 and early 2015 to discuss how the MAPPA extension could be applied through guidance to ensure that application would be focused proportionately to those posing a risk of serious harm to the public. The group also contributed to the development of new guidance to be issued under section 10(6) of the 2005 Act.

8. Meetings also sought to support the responsible authorities in considering the impacts of the policy, what preparations could be required to ensure that practitioners would be ready to apply the new MAPPA category and to help partners plan for its implementation. Similar discussions also took place within the Justice Tripartite Group representing the responsible authorities, MAPPA National Strategy Group and MAPPA Coordinators Group.

9. A number of meetings were also held with MAPPA partners from across Scotland, in particular members of local MAPPA Strategic Oversight Groups comprising criminal justice social work managers, MAPPA coordinators and local Police representatives. Input was also sought over the engagement period from the national Violence Reduction Unit, Care Inspectorate, Strathclyde University Centre for Youth Justice and members of the NHS Scotland Forensic Network.

Impact Assessment and Financial Effects

10. Both an Equality Impact Assessment and a Business and Regulatory Impact Assessment were carried out in relation to the commencement of s.10(1)(e) of the 2005 Act and policy to extend MAPPA. No significant negative impacts were identified.

Scottish Government
Safer Communities Division
21 December 2015

ANNEXE A**Negative instruments: procedure**

Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.

If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.

Each negative instrument appears on the Justice Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

Guidance on subordinate legislation

Further guidance on subordinate legislation is available on the Delegated Powers and Law Reform Committee’s web page at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/64215.aspx>