

Cabinet Secretary for Justice
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Margaret Mitchell MSP
Convenor, Justice Committee
c/o Justice Committee Clerks
Room T2.60
The Scottish Parliament
Edinburgh
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24th August 2016

Dear Naryavel,

I am writing to provide an update to the Committee on the commencement of Parts 1 and 2 of the Criminal Justice (Scotland) Act 2016.

As you are aware the Act received Royal Assent in January of this year. Since then work has been on-going towards implementation of the Act. Scottish Government officials have established implementation groups for each of the main parts of the Act and stakeholders, including Police Scotland, COPFS, SCTS and SLAB have been involved in each of these implementation groups. This close collaboration ensures that organisations are working together to ensure that they will be ready both individually and collectively for commencement of the Act.

We are working towards commencing Part 1 in the summer of 2017. As you know, Part 1 of the Act creates a new arrest and custody regime for suspects and accused persons. Police Scotland and other justice partners need to be able operate the new legislation fully and effectively as soon as it comes into force. A smooth transition to the new system will deliver strong benefits, improving Police Scotland's ability to investigate crime, while also protecting victims, communities and the rights of suspects. This requires significant changes to current practices, guidance materials and importantly IT changes for Police Scotland and other justice partners.

The introduction of the Act has also required a significant training commitment in particular for Police Scotland, as all officers up to and including the rank of Inspector will be trained in the Act and the new procedures that will be adopted. Training for

Part 1 of the Act is well under way for all criminal justice agencies working in Scotland.

The Scottish Government is hosting a number of stakeholder events to assist in the formation of operational guidance. These events will ensure that key stakeholders can advise the police on what should be considered when developing new procedures and operational guidance. It is anticipated that this stakeholder engagement will continue as we progress towards commencement of the Act.

Part 2 of the Act contains provisions regarding searches of persons not in police custody (more commonly referred to as 'Stop and Search'). A Code of Practice must be laid before Parliament no later than 12 January 2017, after a public consultation on a draft Code of Practice. Part 2 also contains enabling provisions that would allow regulations to be laid that confer on constables a power to search children and young people for alcohol, should this be considered necessary after a consultation.


Two public consultations were published on 21 March 2016 and closed on 15 July 2016. One consultation sought views on a draft Stop and Search Code of Practice, the other sought views on whether the police should be given the power to search children and young people under 18 for alcohol.

There has been a particular focus on seeking the views of children and young people. Scottish Government officials have engaged extensively with a wide range of children and young peoples' organisations and groups to encourage them to actively participate in, and to respond to, the consultations. This has included a series of meetings, workshops and consultation events, including several events where officials engaged directly with children and young people from different areas across Scotland. This engagement is on-going.

The Scottish Government intends publishing responses to the consultations by 15 September 2016. It is intended that the analysis of the consultation responses will be published by 15 October 2016. Officials will continue to work closely with John Scott QC and the independent Advisory Group, Police Scotland, other key stakeholders and the Independent Advisory Group as we take forward the next steps.

I will update you and the Committee on progress in due course.

I hope the above information is helpful to the Committee.

Best wishes


MICHAEL MATHESON