



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE COMMITTEE

AGENDA

27th Meeting, 2019 (Session 5)

Tuesday 12 November 2019

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Decision on taking business in private:** The Committee will decide whether to take items 6 and 7 in private.
2. **Scottish Biometrics Commissioner Bill:** The Committee will take evidence on the Bill at Stage 1 from—

Humza Yousaf, Cabinet Secretary for Justice, Angela Davidson, Head of Police Powers Unit, Elaine Hamilton, Head of Forensics Policy, and David Murdoch, Scottish Government Legal Directorate, Scottish Government.
3. **Justice Sub-Committee on Policing:** The Committee will consider a report back from the Sub-Committee meeting held on 7 November 2019.
4. **Scottish Biometrics Commissioner Bill (in private):** The Committee will consider the evidence heard on the Bill.
5. **Children (Scotland) Bill (in private):** The Committee will consider its approach to Stage 1 scrutiny.
6. **Pre-Budget Scrutiny:** The Committee will consider a draft report on its Pre-Budget Scrutiny.
7. **Work programme:** The Committee will consider its work programme.

Stephen Imrie
Clerk to the Justice Committee
Room T2.60
The Scottish Parliament
Edinburgh
Tel: 0131 348 5195
Email: justiceCommittee@parliament.scot

The papers for this meeting are as follows—

Agenda item 2

Paper by the Clerk

J/S5/19/27/1

PRIVATE PAPER

J/S5/19/27/2 (P)

Agenda item 3

Paper by the Clerk

J/S5/19/27/3

Agenda item 4

PRIVATE PAPER

J/S5/19/27/4 (P)

Agenda item 5

PRIVATE PAPER

J/S5/19/27/5 (P)

Agenda item 6

PRIVATE PAPER

J/S5/19/27/6 (P)

Agenda item 7

PRIVATE PAPER

J/S5/19/27/7 (P)

Justice Committee

27th Meeting, 2019 (Session 5) Tuesday 12 November 2019

Scottish Biometrics Commissioner Bill

Background

1. The [Scottish Biometrics Commissioner Bill](#) (“the Bill”) was introduced in the Scottish Parliament, by the Cabinet Secretary for Justice, Humza Yousaf MSP, on 30 May 2019. The Bill, and its [accompanying documents are available online](#). The Bill has been referred to the Justice Committee for stage 1 scrutiny and the Parliament has currently set an end date of 20 December 2019 for the Stage 1 process.

Purpose of the Bill

2. The purpose of the Bill is to address a range of ethical and human rights considerations in Scotland in terms of the approach to the collection, use, retention and disposal of biometric data in the context of policing and criminal justice. The Bill aims to ensure this is done in a lawful, effective and ethical manner.

3. The Bill seeks to achieve this by establishing the post of the Scottish Biometrics Commissioner (‘the Commissioner’). The primary role of the Commissioner will be to draw up and promote the use of a Code of Practice for the collection, use, retention and disposal of biometric data by Police Scotland and the Scottish Police Authority¹, who provide the forensic service to police in Scotland. The Bill also provides for other functions in relation to the Commissioner.

Evidence taking

4. The Committee undertook a call for written evidence on the Bill from 2 July to 30 August 2019. The [responses received by the Committee](#) are now available online. Based on these responses the Committee has invited various witnesses to provide oral evidence on the Bill.

5. At the meeting on 12 November, the Committee will hear from its sixth and final panel of witnesses on the Bill. This panel will consist of-

- **Humza Yousaf MSP**, Cabinet Secretary for Justice;
- **Angela Davidson**, Head of Police Powers Unit, Scottish Government;
- **Elaine Hamilton**, Head of Forensics Policy, Scottish Government;
- **David Murdoch**, Scottish Government Legal Directorate.

6. The Scottish Parliament Information Centre (SPICe) has also produced a [parliamentary Bill Briefing](#) on the provisions of the Bill.

¹ Under Section 2(1) of the Bill, the Code of Practice will apply to Police Scotland and the SPA.

Evidence to date

7. The Committee began taking oral evidence on the Bill on [25 June](#), when it heard from the Scottish Government Bill Team officials (Panel 1).

8. On [24 September](#) the Committee heard from Professor Paul Wiles and Lucy Bradshaw-Murrow, of the Officer of Commissioner for the Retention and Use of Biometric Material (Panel 2), and Dr Christopher Lawless of Durham University, Dr Hannah Graham of the Scottish Centre for Crime and Justice Research and Dr Karen M Richmond of the University of Strathclyde (Panel 3).

9. During her evidence to the Committee on 24 September, Dr Karen Richmond of the University of Strathclyde undertook to provide further written evidence around concerns raised in relation to the legal basis for transferring biometric data collected in Scotland to UK-wide police databases. Questions were also raised about the powers of the Commissioner under the Bill in relation to Scottish biometric data held on such UK-wide databases. Dr Richmond has now [provided further written evidence](#) on her work to explore these issues in more detail.

10. On [1 October](#), the Committee heard from Maureen Falconer, Regional Manager for Scotland at the Information Commissioners Office, Matthew Rice, Scottish Director of Open Rights Group, Al Duff, Professor of Information Policy at Edinburgh Napier University and Member of NO2ID Edinburgh, and Judith Robertson, Chair of the Scottish Human Rights Commission (Panel 4).

11. On [29 October](#) the Committee heard from Police Scotland and the Scottish Police Authority Forensic Services Division (Panel 5).

12. The Committee has received written views on the Bill from the [National Crime Agency](#) and the [British Transport Police](#). This is in response to a request from the Committee^{2,3} to both organisations, setting out questions arising from the evidence received to date.

13. Finally, the Committee has also received a [note from the Scottish Parliamentary Corporate Body \(SPCB\) Officeholder Services secretariat](#) setting out information on the role of the SPCB in appointing and supporting various Officeholders.

Justice Committee clerks 7 November 2019

² Request to the National Crime Agency:
https://www.parliament.scot/S5_JusticeCommittee/Inquiries/Letter_to_the_National_Crime_Agency_201910_10.pdf

³ Request to the British Transport Police:
https://www.parliament.scot/S5_JusticeCommittee/Inquiries/Letter_to_the_British_Transport_Police_201910_10.pdf

Justice Committee on Policing

27th Meeting, 2019 (Session 5), Tuesday 12 November 2019

Note by the Clerk

Feedback paper

Introduction

1. On 7 November 2019, the Justice Sub-Committee on Policing took evidence on police custody provisions from Unison Scotland, Police Scotland and the Scottish Police Federation.

2. Members discussed transfer of prisoners and the contract for transfers with GeoAmey and the numbers of prisoners transferred. Since February 2019, the contract for movement of prisoners in custody transferred to GeoAmey from G4S. Members considered the hub approach taken to custody provisions, and Police Scotland's aim to build a specialist core of staff trained in custody to manage demand across the country, with an emphasis on safety for prisoners and staff. Capital spending for upgrade of the custody estate for 2019/20 was withdrawn this year and reprioritised elsewhere. Police Scotland's Custody Section is now rebidding for new capital funding to address estate needs.

3. Members considered the development of Ancillary Custody Centres in rural areas, like Argyll and Bute, to deal with the variations in throughput and needs of the prisoners. This has resulted to 75% fewer police in Argyll and Bute being engaged in custody processing and therefore being released back to frontline policing. Police Scotland highlighted the potential impact on custody capacity from the forthcoming COP26 climate conference in Glasgow in November 2020. SPF highlighted the teething issues with PC-led custody centres with problems in remote areas where centre supervision is carried out remotely through TV-monitors. SPF feel PC-led centres should have supervisors located in these centres, but current financial resources prevent this. UNISON also spoke to the concerns supervising sergeants who monitor centres remotely have expressed about the ability to clearly monitor prisoners through deficiencies with the technology.

4. Assessment of risks in custody centres, and the level of staff needed to ensure health and safety provision, especially around constant observation of vulnerable prisoners, was also considered by the Sub-Committee.

5. Following the session, members agreed to highlight their concerns on capital budget issues to support custody centres and address the issues raised in evidence. These concerns will be considered as part of the Sub-Committee's pre-budget scrutiny report on the 2020/21 budget for Police Scotland.

6. Members had an initial discussion on a draft pre-budget report and also agreed witnesses and a timetable for the Sub-Committee's inquiry into the use of facial recognition technology in Scotland.

**Justice Sub-Committee clerks
7 November 2019**