



The Scottish Parliament  
Pàrlamaid na h-Alba

## JUSTICE COMMITTEE

### AGENDA

5th Meeting, 2018 (Session 5)

Tuesday 6 February 2018

The Committee will meet at 9.45 am in the Mary Fairfax Somerville Room (CR2).

1. **Decision on taking business in private:** The Committee will decide whether to take item 7 in private.
2. **Subordinate legislation:** The Committee will take evidence on the Human Trafficking and Exploitation (Scotland) Act 2015 (Support for Victims) Regulations 2018 [draft] from—

Michael Matheson, Cabinet Secretary for Justice, Peter Hope-Jones, Human Trafficking Team Leader, and Louise Miller, Directorate for Legal Services, Scottish Government.

3. **Subordinate legislation:** Michael Matheson (Cabinet Secretary for Justice) to move—

S5M-10054—That the Justice Committee recommends that the Human Trafficking and Exploitation (Scotland) Act 2015 (Support for Victims) Regulations 2018 [draft] be approved.

4. **Alternative dispute resolution:** The Committee will take evidence, in round-table format, from—

John Sturrock QC, Chief Executive and Senior Mediator, Core Solutions Group;

Heloise Murdoch, Mediation Co-ordinator, Edinburgh Sheriff Court Mediation Service;

Angela Grahame QC, Vice-Dean, Faculty of Advocates;

R. Craig Connal QC, Partner, Pinsent Masons;

Andrew Mackenzie, Chief Executive, Scottish Arbitration Centre;

Colin Lancaster, Chief Executive, Scottish Legal Aid Board;

Robin Burley, Chair, Scottish Mediation.

5. **Remand:** The Committee will take evidence from—

Karyn McCluskey, Chief Executive, and Keith Gardner, Head of Improvement, Community Justice Scotland;

Thomas Jackson, Head of Community Justice, Glasgow City Council, representing the Convention of Scottish Local Authorities;

Tom Halpin, Chief Executive, Safeguarding Communities - Reducing Offending;

Kathryn Lindsay, Chief Social Work Officer, Member of Social Work Scotland.

6. **Remand - witness expenses:** The Committee will be invited to delegate to the Convener responsibility for arranging for the SPCB to pay, under Rule 12.4.3, any expenses of witnesses in the evidence session.

7. **Work programme:** The Committee will consider its work programme.

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The papers for this meeting are as follows—

**Agenda items 2 and 3**

Paper by the clerk - Human Trafficking and Exploitation (S) Act 2015 (Support for Victims) Regulations 2018 J/S5/18/5/1

**Agenda item 4**

Paper by the clerk - alternative dispute resolution J/S5/18/5/2

Private paper - alternative dispute resolution J/S5/18/5/3 (P)

[Written submission from Core Solutions Group](#)

[Written submission from Edinburgh Sheriff Court Mediation Service](#)

[Written submission from the Scottish Arbitration Centre](#)

[Written submission from Scottish Mediation](#)

[All written submissions received](#)

**Agenda item 5**

Paper by the clerk - remand J/S5/18/5/4

Private paper - remand J/S5/18/5/5 (P)

[Written submission from Community Justice Scotland](#)

[Written submission from the Convention of Scottish Local Authorities](#)

[All written submissions received](#)

**Agenda item 7**

Private paper - work programme J/S5/18/5/6 (P)

**Justice Committee**

**5<sup>th</sup> Meeting, 2018 (Session 5), Tuesday 6 February 2018**

**Subordinate legislation**

**Note by the clerk**

**Purpose**

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

- [Human Trafficking and Exploitation \(Scotland\) Act 2015 \(Support for Victims\) Regulations 2018 \[draft\]](#)

**Introduction**

2. This instrument is made under sections 9(2)(b)(i) and 10(1) of the Human Trafficking and Exploitation (Scotland) Act 2015.

3. The Regulations specify a period of 90 days during which Scottish Ministers must secure for an adult the provision of such support and assistance as they consider necessary given the adult's needs, where there are reasonable grounds to believe that an adult is a victim of an offence of human trafficking and exploitation.

4. Further details on the purpose of the Regulations can be found in the policy note attached at **Annexe A**.

**DELEGATED POWERS AND LAW REFORM COMMITTEE CONSIDERATION**

4. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 23 January 2018 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

**JUSTICE COMMITTEE CONSIDERATION**

5. The Justice Committee is required to report to the Parliament on the instrument by 1 March 2018. The Cabinet Secretary for Justice has lodged motion S5M-10054 proposing that the Committee recommends approval of the instrument. The Cabinet Secretary is due to attend the meeting on 6 February to answer any questions on the instrument and to move the motion for approval.

6. It is for the Committee to decide whether or not to agree to the motion, and then to report to the Parliament by 1 March 2018. Thereafter, the Parliament will be invited to approve the instrument.

**7. The Committee is asked to delegate to the Convener authority to approve the report on the instrument for publication.**

## Policy Note

### Human Trafficking and Exploitation (Scotland) Act 2015 (Support for Victims) Regulations 2018 [draft]

#### Policy Objectives

#### Relevant period

1. Section 9(2)(b)(i) empowers the Scottish Ministers to specify the period during which the Scottish Ministers must secure for the adult the provision of such support and assistance as they consider necessary given the adult's needs, where there are reasonable grounds to believe that an adult is a victim of an offence of human trafficking and exploitation, an offence under section 1 of the Act.
2. These Regulations specify the period to be 90 days.
3. As part of the consultation on the Trafficking and Exploitation Strategy at the end of 2016 the Scottish Government commissioned two events with adult victims of human trafficking. These highlighted that survivors value: safety, security, recovery of self-respect and a prospect of a better future life as outcomes of support. Many stakeholders were of the view that the current 45 days of support provided were insufficient to begin to deliver this, proposing 90 days instead.
4. In June 2017 the Cabinet Secretary for Justice announced that, having considered all the factors, Regulations should be brought forward setting out a relevant period of 90 days.

#### Support and assistance: victims of an offence under section 4 of the Act

5. Section 10(1) of the Act empowers the Scottish Ministers to make provision about providing support and assistance to an adult who is, or appears to be, a victim of an offence under section 4 of the Act (slavery, servitude and forced or compulsory labour). In terms of section 10(2), these Regulations may contain provision about the method of determining whether an adult is, or appears to be, a victim of an offence under section 4, the period during which support and assistance must be provided, the period during which support and assistance may be provided, the types of support and assistance to be provided, and the manner in which the support and assistance is to be provided.
6. The Trafficking and Exploitation Strategy contains a commitment that the Scottish Government will consider how victims of an offence under section 4 should be identified and supported. The policy intention is that the process of determining whether an adult is a victim of an offence under section 4; the support and assistance provided; and the period for which it is provided should be identical to that for a victim of an offence of human trafficking and exploitation.

### **Consultation**

7. The consultation on the relevant period under section 9(2)(b)(i) ran from 3 November to 23 December 2016. 31 written responses were received.
8. The consultation on support and assistance for victims of a section 4 offence ran from 15 September to 30 October 2017. 28 written responses were received.
9. Both issues were also discussed at the 10 consultation events that were held around Scotland although the primary focus of the consultation events was the Trafficking and Exploitation Strategy.

### **Commencement date**

10. These Regulations are subject to the affirmative procedure. The proposed commencement date is 1 April 2018.

### **Impact Assessments**

11. An Equality Impact Assessment was carried out for the Human Trafficking and Exploitation (Scotland) Act 2015 and for the Trafficking and Exploitation Strategy in May 2017.

**Justice Committee**  
**5th Meeting, 2018 (Session 5), Tuesday 6 February 2018**  
**Alternative Dispute Resolution**  
**Note by the clerk**

**Introduction**

1. At its meeting on [23 January 2018](#), the Committee agreed to hold a round-table evidence session on Alternative Dispute Resolution (ADR).
2. This is the Committee's first consideration of this issue and the round-table evidence session is an opportunity to have a free-flowing discussion about ADR in Scotland. Issues which might be considered include the advantages and disadvantages of ADR, the current availability of different types of ADR in Scotland, and any barriers to the use of ADR.

**Justice Committee consideration**

3. At its meeting on 6 February 2018, the Committee will take evidence, in round-table format, from representatives of the Edinburgh Sheriff Court Mediation Service, the Faculty of Advocates, the Scottish Arbitration Centre, the Scottish Legal Aid Board, and Scottish Mediation, as well as Craig Connal QC, Partner, Pinsent Masons LLP, and John Sturrock QC, Chief Executive and Senior Mediator, Core Solutions Group.
4. Written submissions have been received from the Edinburgh Sheriff Court Mediation Service, the Scottish Arbitration Centre, Scottish Mediation and John Sturrock QC.
5. Written submissions were also sought from others not giving oral evidence. A submission was received from the Family Law Arbitration Group Scotland (FLAGS).
6. All written submissions received, including any late submissions, can be found on our [webpage](#).

**Justice Committee**  
**5th Meeting, 2018 (Session 5), Tuesday 6 February 2018**  
**Remand**  
**Note by the clerk**

**Introduction**

1. At its meeting on 16 January 2018, the Committee held a round-table session on remand. The purpose of the round-table was to explore issues around the use of remand in Scotland as well as the experience of prisoners held on remand.
2. The Committee heard from the Crown Office and Procurator Fiscal Service, HM Chief Inspector of Prisons for Scotland, the Scottish Prison Service, and the Scottish Working Group on Women's Offending.
3. The Official Report from the meeting can be found [here](#) and all written submissions received prior to the round-table session can be found [here](#).
4. Following the round-table the Committee agreed to hold a further evidence session on remand to consider in more detail some of the issues raised. Such issues included: the reasons for remanding a person into custody; the information available to the court to inform its decision on remand; and the availability of alternatives to remand, such as bail supervision, across Scotland.

**Justice Committee consideration**

5. At its meeting on 6 February 2018, the Committee will take evidence from representatives of Community Justice Scotland, the Convention of Scottish Local Authorities (COSLA), Safeguarding Communities – Reducing Offending (Sacro), and Social Work Scotland.
6. Written submissions have been received from Community Justice Scotland and COSLA and can be found [here](#). Any late submissions received will also be posted on that [webpage](#).