



The Scottish Parliament  
Pàrlamaid na h-Alba

## JUSTICE COMMITTEE

### AGENDA

**29th Meeting, 2019 (Session 5)**

**Tuesday 26 November 2019**

The Committee will meet at 11.00 am in the Mary Fairfax Somerville Room (CR2).

- 1. Children (Scotland) Bill:** The Committee will receive a briefing from—  
  
Simon Stockwell, Head of Family Law Unit, Iain Fitheridge, Head of Children's Hearings Team, Hannah Frodsham, Family Law Unit, Shona Spence, Looked after Children Team, Margaret Main, Scottish Government Legal Directorate, Jamie Bowman, Scottish Government Legal Directorate, and Victoria Morton, Scottish Government Legal Directorate, Scottish Government.
- 2. Justice Sub-Committee on Policing:** The Committee will consider a report back from the Sub-Committee meeting held on 21 November 2019.
- 3. Children (Scotland) Bill (in private):** The Committee will consider its approach to Stage 1 scrutiny.
- 4. Scottish Biometrics Commissioner Bill (in private):** The Committee will consider a draft Stage 1 report.

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

The papers for this meeting are as follows—

**Agenda item 1**

Paper by the Clerk

J/S5/19/29/1

PRIVATE PAPER

J/S5/19/29/2 (P)

**Agenda item 2**

Paper by the Clerk

J/S5/19/29/3

**Agenda item 3**

PRIVATE PAPER

J/S5/19/29/4 (P)

**Agenda item 4**

PRIVATE PAPER

J/S5/19/29/5 (P)

PRIVATE PAPER

J/S5/19/29/6 (P)

## Justice Committee

29th Meeting, 2019 (Session 5), Tuesday 26 November 2019

### Children (Scotland) Bill

#### Note by the clerk

#### Introduction

1. The Children (Scotland) Bill was introduced in the Scottish Parliament on 2 September 2019. It is a Scottish Government Bill. The Bill mainly makes changes to how disputes in relation to children are settled when families break down.
2. According to the Scottish Government, the policy aims of the Bill are to:
  - ensure the views of the child are heard in contact and residence cases;
  - further protect victims of domestic abuse and their children;
  - ensure the best interests of the child are at the centre of contact and residence cases and Children's Hearings; and
  - further compliance with the United Nations Convention on the Rights of the Child (UNCRC) in family court actions.
3. More information on the Bill can be found here:  
<https://www.parliament.scot/parliamentarybusiness/Bills/112632.aspx>
4. A SPICe briefing on the Bill can be found here:  
<https://digitalpublications.parliament.scot/ResearchBriefings/Report/2019/11/21/The-Children--Scotland--Bill>
5. SPICe have also prepared a briefing looking at how other legal systems deal with parenting disputes, which can be found here:  
<https://digitalpublications.parliament.scot/ResearchBriefings/Report/2019/11/20/Resolving-parenting-disputes--Scotland-compared-to-other-countries>

#### Justice Committee scrutiny

6. The Bill was referred to the Justice Committee for Stage 1 scrutiny. The Committee launched a [call for evidence](#) on 20 September 2019, with a closing date of 15 November 2019. To date, 54 responses have been received and published here:  
<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/113648.aspx>
7. Any late responses will be published on that webpage in due course.
8. As part of its scrutiny of the Bill, the Committee commissioned an external academic, Dr Lesley-Anne Barnes Macfarlane of Edinburgh Napier University, to review both the current law and the proposed reforms in the Bill from a human

rights perspective. Her report can be found here:

[https://www.parliament.scot/S5\\_JusticeCommittee/Inquiries/Balancing\\_the\\_Rights\\_of\\_Parents\\_and\\_Children\\_Report.pdf](https://www.parliament.scot/S5_JusticeCommittee/Inquiries/Balancing_the_Rights_of_Parents_and_Children_Report.pdf)

And a summary report here:

[https://www.parliament.scot/S5\\_JusticeCommittee/Inquiries/Balancing\\_the\\_Rights\\_of\\_Parents\\_and\\_Children\\_Report\\_Summary.pdf](https://www.parliament.scot/S5_JusticeCommittee/Inquiries/Balancing_the_Rights_of_Parents_and_Children_Report_Summary.pdf)

9. At its meeting on 26 November 2019, the Committee will take evidence from Scottish Government officials assisting Ministers in taking the Bill through Parliament (“the Bill team”). At future meetings in December 2019 and January 2020, the Committee will hear from other witnesses with an interest in the Bill.

**Justice Sub-Committee on Policing**

**29th Meeting, 2019 (Session 5), Tuesday 26 November 2019**

**Note by the Clerk**

**Feedback paper**

**Introduction**

1. On 21 November 2019, the Justice Sub-Committee on Policing held its first evidence session on its inquiry into the use of facial recognition technology by the police service in Scotland.
2. The Sub-Committee heard from Dr Christopher Lawless, Associate Professor, Department of Sociology, Durham University, Dr Joe Purshouse, Lecturer in Criminal Law, School of Law, University of East Anglia, and Dr Anna Bobak, Postdoctoral Research Fellow, Psychology, University of Stirling.
3. Members heard concerns about whether there is a sufficient legal framework for the use of facial recognition technology by the police service. In England and Wales there is a reliance on common law provision, which is general in nature and which has not kept pace with the development of this technology. The lack of regulation of the collection, retention and use of biometric data could lead to possible future legal challenges, and therefore there should be a clear framework and guidelines in place before live facial recognition is used in Scotland.
4. Another risk identified is the reliance of Police Scotland on custody images contained in the UK Police National Database, where the person was not convicted, and the image was not deleted by the forces in England or Wales. It is illegal to retain these images, but the practice continues.
5. The witnesses suggested that a Scottish Biometrics Commissioner could have a role in considering whether there are sufficient guidelines prior to deployment of live facial recognition technology by Police Scotland and other public sector bodies. Witnesses felt that the Commissioner should prioritise consideration of facial recognition technology, once in post. These rules would frame the police service's proportional use of facial recognition technology. Another role suggested for the Commissioner was to consider this use of live facial recognition technology by private companies.
6. Another concern was the inaccuracy levels associated with this technology, with results based on a set of algorithms, and the operator / police officer's interpretation of those algorithms. The police service should verify the claims made by private technology companies before purchasing facial recognition technology. The inclusion of computer scientists or researchers in such an assessment process could be of assistance.
7. The Sub-Committee heard that public support for the use of this technology is low and, due to its unreliability and reported bias. There are also concerns about its impact on minority communities. The police service needs to have a clear purpose for using this technology, which meets human rights requirements, and communicate this purpose clearly to the public. They should demonstrate that lessons have been learned from the proposed introduction of cyber kiosks for frontline officers about communication and the inclusion of stakeholders to shape policy.

8. The Sub-Committee will meet on 5 December where it will continue taking evidence on its inquiry into the use of facial recognition technology by the police service.

**Justice Sub-Committee clerks**

**21 November 2019**