



The Scottish Parliament  
Pàrlamaid na h-Alba

## JUSTICE COMMITTEE

### AGENDA

18th Meeting, 2020 (Session 5)

Tuesday 25 August 2020

The Committee will meet at 10.30 am in the Mary Fairfax Somerville Room (CR2).

1. **Declaration of interests:** Adam Tomkins will be invited to declare any relevant interests.
2. **Choice of Convener:** The Committee will choose a new Convener.
3. **Defamation and Malicious Publications (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

Andrew Tickell, Trustee, Scottish PEN;

Nick McGowan-Lowe, Organiser, Scottish Office, National Union of Journalists;

and then from—

John McLellan, Director, Scottish Newspaper Society;

Shelley Jofre, Investigations Editor, and Luke McCullough, Senior Policy Adviser, BBC Scotland.

4. **Defamation and Malicious Publications (Scotland) Bill (in private):** The Committee will review the evidence heard earlier in the meeting.

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The papers for this meeting are as follows—

**Agenda item 3**

Note by the Clerk

J/S5/20/18/1

PRIVATE PAPER

J/S5/20/18/2 (P)

PRIVATE PAPER

J/S5/20/18/3 (P)

## Justice Committee

18th Meeting, 2020 (Session 5), Tuesday, 25 August 2020

### Defamation and Malicious Publications (Scotland) Bill

#### Paper from the Clerk

#### Introduction

1. The Defamation and Malicious Publications (Scotland) Bill (“the Bill”) was introduced by the Cabinet Secretary for Justice on 2 December 2019. The Bill and accompanying documents can be accessed [here](#).

2. The purpose of the Bill is to clarify and strengthen the statutory underpinning of defamation in Scots law. The Bill seeks to do this by placing certain key elements of Scots common law on defamation on a statutory basis. The Bill will also replace and restate, in one place, elements of the existing statutory provisions in Scots law.

3. According to the policy memorandum which accompanies the Bill, the overarching policy objective of the Bill is “to modernise and simplify the law of defamation (and the related action of malicious publication) in Scotland in order to:

- strike a more appropriate balance between freedom of expression and the protection of individual reputation; and
- clarify the law and improve its accessibility.

#### Approach to Stage 1 consideration

4. The Justice Committee agreed its approach to Stage 1 scrutiny of the Bill at its meeting on 10 March 2020 and began taking oral evidence [by hearing from the Scottish Government Bill Team](#) on 17 March 2020. Initially, the Committee planned to take oral evidence on the Bill throughout March and April 2020.

5. However, in the wake of the hiatus to parliamentary business caused by the COVID-19 pandemic, the Parliament has set a revised Stage 1 deadline for the Bill of 7 November 2020. As a result, the Committee agreed to suspend oral evidence taking until after the summer recess.

6. The Committee informally considered a revised timetable for oral evidence taking as part of a Business Planning meeting which took place remotely on 11 August. The Committee formally agreed its revised timetable this at its meeting on 18 August.

7. The Committee will recommence taking oral evidence on the Bill from witnesses on 25 August, starting with two panels of witnesses. It is expected Stage 1 scrutiny of the Bill will continue throughout September and October, and the

Committee would report to the Parliament on the general principles before the end of October 2020.

### **Written Evidence**

8. Written submissions received by the Committee in response to its call for views on the Bill, including those submissions for witnesses giving oral evidence, are [available on the Committee's webpage](#).
9. A [SPICe briefing](#) setting out the key issues in the Bill is also available online.

### **Oral Evidence**

10. At its meeting on 25 August, the Committee will begin taking oral evidence on the Bill by hearing from two panels of witnesses. They are—

- Andrew Tickell of Scottish PEN and Nick McGowan-Lowe of the National Union of Journalists, and
- John McLellan of the Scottish Newspaper Society, and Shelley Jofre and Luke McCullough of BBC Scotland.

11. This evidence session will take place in hybrid mode, with some Members and witnesses appearing remotely via live video conferencing, while other witnesses give evidence in person in Committee Room 2 of the Scottish Parliament.

12. Members of the public can watch the evidence session live on the Scottish Parliament TV website from 10:30 am on Tuesday 25 August: <https://www.scottishparliament.tv/>

13. Following this evidence session, the Committee will consider the evidence received as part of the Stage 1 scrutiny of the Bill.

**Justice Clerks**  
**20 August 2020**