



**JUSTICE AND HOME AFFAIRS COMMITTEE**

**AGENDA**

**15th Meeting, 2000 (Session 1)**

**Wednesday 26 April 2000**

The Committee will meet at 9.30 am in the Chamber, Assembly Hall, the Mound, Edinburgh

- 1. Budget 2001-02:** The Committee will take evidence on the Executive's expenditure proposals from—

Andrew Normand, Crown Agent, Crown Office

Niall Campbell, Head of Civil and Criminal Law Group, Ian Allen, Head of Legal Aid Branch, Mark Batho, Assistant Director of Finance, Ruth Ritchie, Team Leader Finance (Justice Department), and David Stewart, Head of Judicial Appointments and Finance Division, Scottish Executive.

John Ewing, Chief Executive, Scottish Courts Service.

Elizabeth May, Assistant Director, Finance and Administration and David McKenna, Assistant Director, Operations, Victim Support Scotland.

- 2. Judicial Appointments:** The Committee will decide whether to appoint a Reporter to consider the issues raised in the Scottish Executive consultation paper.
- 3. Future Business:** The Committee will consider its future work programme.

Andrew Mylne  
Clerk to the Committee  
Tel 85206

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**The following papers are attached for this meeting:**

Agenda item 1

Written Answer by the Minister for Justice on funding for victim support

JH/00/15/1

Agenda item 3

Note by the Clerk on schedule of meetings Easter - Summer

[JH/00/15/4](#)

Forward Programme Easter – Summer

[JH/00/15/5](#)

Note by the Clerk on proposed subjects for future inquiry

[JH/00/15/7](#)

Note: Copies of the Executive consultation paper on judicial appointments (relevant to Agenda item 2) are available from the Document Supply Centre or on the Executive's website.

## JUSTICE AND HOME AFFAIRS COMMITTEE

### Papers for information circulated for the 15th meeting

Letter from Scottish Executive Justice Department on Legal Aid SSI debate at 14th Meeting [JH/00/15/2](#)

European document 864: Commission Green Paper on civil legal aid for cross-border litigants (**for information only**). [JH/00/15/3](#)  
[Note: only Part I (general presentation of the issues) plus an Explanatory Memorandum by the Lord Chancellor's Department are circulated. Full copies of the Green Paper (19 pp) are available on request from the Clerks.]

Letter to the Convener from the Chairman of the House of Commons Home Affairs Committee (Commons written answer attached). [JH/00/15/6](#)  
[Note: copies of the Report referred to may be obtained on request from the Document Supply Centre. Alternatively, members are welcome to consult the copy sent to the Convener by contacting Sarah Aitcheson in room 3.5, Committee Chambers.]

Letter from the Alliance for the Promotion of the Incapable Adults Bill [JH/00/15/8](#)

Scottish Executive press release on scrutiny of judicial appointments and police complaints

Extract from the *Daily Mirror* on intrusive surveillance bill

Minutes of the 14th Meeting, 2000 [JH/00/14/M](#)



## SCOTTISH EXECUTIVE

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Justice Department  
Parole & Legal Aid Division

Mr Andrew Mylne  
Clerk to The Justice and Home Affairs Committee  
The Scottish Parliament  
EDINBURGH  
EH99 1SP

Saughton House  
Broomhouse Drive  
Edinburgh EH11 3XD  
DX: ED 20 -557007

Telephone: +44 (0)131-244 2199  
Fax: +44 (0)131-244 8794  
carol.sibbald@scotland.gov.uk

Your ref:  
Our ref:

Date: 6 April 2000

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Dear Mr Mylne

### **JUSTICE AND HOME AFFAIRS COMMITTEE MEETING TUESDAY 4 APRIL LEGAL AID STATUTORY INSTRUMENTS**

On reviewing the Official Report of the Justice and Home Affairs Committee meeting of 4 April, I note that the opening remarks made by the Deputy Minister for Justice contain inaccurate figures with regard to the Civil Legal Aid (Financial Conditions ) (Scotland) Regulations 2000.

When discussing the eligibility upratings for civil legal aid, (cols. 1037 to 1041 of the Official Report refers) the Minister stated :

"With effect from 10 April 2000, they raise the lower disposable income limit—below which civil legal aid is available without contribution by the assisted person—from £2,680 to £2,723 a year, and raise the upper limit—above which civil legal aid is not available—from £8,370 to £8,571 a year."

In fact as evidenced by Regulation 3 of the draft Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2000 and paragraph 2 of the associated Executive Note, the upper limit - above which civil legal aid is not available - has increased from £8,751 to £8,891.

I would therefore be grateful if you would pass on my apologies for this administrative error to the Convener of the Justice and Home Affairs Committee.

Yours sincerely

Carol Sibbald

Miss Carol Sibbald





3H/00/15/3

## GREEN PAPER FROM THE COMMISSION

### Legal aid in civil matters: The problems confronting the cross - border litigant

#### Part I: General presentation of the issues

One concomitant of increasing use of the Treaty rights of free movement of persons, goods and services is an increase in the potential number of cross-border disputes. Such disputes are not necessarily between large companies; they may affect small business or individuals, who may be of modest means. For example, individuals may be involved in an accident while on holiday or while making a shopping trip abroad, or they may buy goods, which later turn out to be faulty or dangerous. Their spouse may have left the matrimonial home with the children of the marriage and settled in another country. They may need to pursue the matter in the country in which the dispute arose or, worse still may be threatened with proceedings there. A small company might sell goods abroad and later be threatened with proceedings in the purchasers' country. A consumer may order, over the Internet, goods from abroad which are never dispatched or which turn out to be faulty.

The scope of what may constitute "legal aid" may vary from country to country. For the purpose of this Green Paper, the Commission understands by the expression "legal aid" any of the following :

- provision of free or low-cost legal advice or court representation by a lawyer;
- partial or total exemption from other costs, such as court fees, which would normally be levied;
- direct financial assistance to defray any of the costs associated with litigation, such as lawyers' costs, court fees, witness expenses, liability of a losing party to support winners' costs, etc.

A person threatened with proceedings or wishing to bring proceedings abroad, may need legal aid at three stages:

- (1) First, pre-litigation advice
- (2) Second, the assistance of an advocate at a trial and exemption from court fees
- (3) Third, assistance at the stage of having a foreign judgment declared enforceable or being enforced.

For a number of years, a series of questions to the European Parliament and correspondence addressed to the Commission have brought to light some of the problems that exist with regard to access to legal aid for persons involved in disputes and litigation in a Member State other than their own. A comparative study of the national schemes on legal aid shows that in

fact these systems differ considerably, thereby presenting a cross-border litigant with serious difficulties.

The Commission has already given support to initiatives in this field. For example, the "Guide to legal aid and advice in the EEA" produced in 1996 by Professor D. Walters on behalf of the Commission and under the auspices of the Council of the Bars and Law Societies of the EU, and the seminar held at the University of Angers in April 1998 on Legal Aid, which was based on the report of Professor Adrian Wood entitled "Access to Legal Aid in the Member States of the EU: Problems and tentative solutions", which received financial support from the GROTIUS-programme.

The Commission is also interested in the related problem of recovery of legal expenses and lawyers fees. It will publish a Commission Working Paper on this issue in the course of the first half of 2000.

Even a cursory examination reveals that there are fundamental differences in the philosophy and organisation and management of the legal aid systems in the Member States. As regards the philosophy of the systems, the broad objective in some States seems to be to make legal services and access to justice generally available, whereas in others the legal aid system can be seen as an adjunct of welfare law, available only to the very poorest.

These differences also have practical repercussions. In some countries there is a well-developed system whereby the State or an agency thereof directly provides realistic reimbursement to the lawyers involved whereas in others the scheme consists of lawyers themselves offering (whether voluntarily or compulsory) pro-bono services or services which are not realistically remunerated.

In a number of Member States, radical reforms have been introduced or are envisaged in the comparatively near future.

Taking into consideration that each national scheme is in principle available only for proceedings to be held on that nation's territory, an applicant from Member State A. needing legal aid in Member State B. will be faced with several obstacles, some of which may owe their instance precisely to the fact that the applicant is resident abroad.

These obstacles may be caused by:

- A requirement of residence or presence in the Member State where the aid is sought
- Conditions linked to the applicant's financial means
- Conditions linked to a review of the merits or chances of success of the proceedings for which legal aid is requested.
- Lack of information about the availability of legal aid in other Member States or about existing channels for transmitting applications for legal aid in other Member States
- The fact that national legal aid schemes do not take into account the extra costs of cross-border litigation (translations of documents, double legal advice, service of documents, etc.)
- Language difficulties

Whilst it is true that the second and third obstacles may exist even in the case of domestic applicants, they may be compounded in the case of foreign applicants. These difficulties are analysed further below.

It is a corollary of the freedoms guaranteed by the EC Treaty that a citizen must be able, in order to resolve disputes arising from his activities while exercising any of those freedoms, to bring or defend actions in the courts of a Member State in the same way as nationals of that Member State. In many circumstances, such a right to access to justice can be effectively exercised only when legal aid is available under given conditions.

In the absence of Community legislation, it is for each Member State's legal system to lay down the detailed procedural rules to safeguard the rights which individuals derive from Community law, including those relating to legal aid. However, such rules may neither discriminate against those to whom Community law gives the right to equal treatment nor restrict the fundamental freedoms guaranteed by Community law.

Even under the provisions of Title VI of the Treaty on European Union (the Maastricht Treaty), judicial cooperation in civil matters was already regarded as an issue of common interest, whatever the nature of the rights for which cooperation is required. "Without prejudice to the powers of the European Community" Title VI was intended to complement the latter and to contribute to the construction of an "ever closer union", i.e. to go beyond Europe merely as a market.

Under the Amsterdam Treaty, the question of judicial cooperation in civil matters having cross-border implications falls under Title IV of the EC Treaty (Art. 65). The Council can now adopt measures *inter alia* to eliminate obstacles to the good functioning of civil proceedings. In the conclusions to the special meeting held in Tampere on 15 and 16 October 1999 on the creation of an area of freedom, security and justice in the European Union, the European Council invited the Council, on the basis of proposals by the Commission, to establish minimum standards ensuring an adequate level of legal aid in cross-border cases throughout the Union. This Green Paper represents the first step towards the achievement of this goal.

As well as obligations arising directly from Community law, other international instruments are relevant. In particular, Art. 6(3) of the European Convention on Human Rights (applicable in all Community Member States) entitles everyone charged with a criminal offence to free legal assistance if he/she has not sufficient means to pay for it, when the interests of justice so require. In addition to this specific provision, applicable only in criminal cases, the general entitlement of Art. 6 to a fair hearing whatever the nature of the proceedings, has been held to comprise a right, in certain circumstances, to legal aid.



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## EXPLANATORY MEMORANDUM

### GREEN PAPER ON LEGAL AID IN CIVIL MATTERS TO CONSULT ON THE PROBLEMS CONFRONTING THE CROSS-BORDER LITIGANT

Submitted by the Lord Chancellor's Department  
23/03/2000

#### SUBJECT MATTER

This Green Paper from the Commission follows on from one of the conclusions that came out of the Tampere European Council in October 1999, which recommended that the European Council should establish minimum standards ensuring an adequate level of legal aid in cross-border cases throughout the European Union. There has been no previous Parliamentary scrutiny of this or any other document connected to this proposal.

#### MINISTERIAL RESPONSIBILITY

The Lord Chancellor has primary responsibility for civil legal aid matters in England and Wales and Northern Ireland. Scottish Executive Ministers have responsibility in Scotland.

#### LEGAL AND PROCEDURAL ISSUES

(i) Legal basis

This is a consultation document. The Commission contemplates that any measure following from it might be adopted under Article 65.

(ii) European Parliament procedure

Not applicable.

(iii) Voting procedure

Not applicable.

(iv) Impact on United Kingdom Law

None as yet.

(v) Application to Gibraltar

None.

## POLICY IMPLICATIONS

The Green Paper sets out several problems that can be encountered by people seeking legal aid across boundaries, and suggests solutions. This Memorandum summarises the issues and indicates the Government's view.

### Eligibility *ratione personae*

Legal aid is already available to foreign nationals bringing or defending proceedings in the UK. There are no residence requirements and therefore no discrimination against foreign nationals as regards eligibility for civil legal aid. The proposals in this section would therefore cause the UK no difficulty.

### Substantive eligibility

The Commission is concerned that the individuals of member states could be discriminated against because financial eligibility tests take no account of relative income. The Commission suggest that the financial conditions of the granting country should be applied, but with a 'corrective factor' or 'weighting' applied to take account of the differences in the cost of living, or alternatively that a less stringent test of 'requires funding' should be applied to foreign nationals. This is similar to the test for criminal legal aid in which there are no upper eligibility limits.

The Government takes the general view that it would be unfair to apply a test involving stricter eligibility limits to UK nationals than to foreign nationals. The alternative of the weighting factor would be both difficult to agree and administer. This issue will be covered in the formal response to the Commission.

The Government is content with suggestions for transparency of the criteria on which legal aid is granted and reasons for refusal on the merits test. We disagree with the Commission's view that the subjectivity of decision-making makes it more difficult for an EU national to pass the merits test than a national of the Home State. Our legal aid merits test applies equally to all applicants regardless of nationality and is as objective as possible in the circumstances.

The Commission states that it has no intention of harmonising legal aid provision and we would wish to see this stance continue on eligibility tests, which are closely connected to provision.

### The problems of extra costs engendered by the fact that the litigation is cross-border

The Commission is concerned that potential litigants may find that the legal aid system is tailored to domestic proceedings and may find no provision for any extra expense due to the cross-border element of the proceedings. Legal aid in the UK already complies with the provisions of the Strasbourg Convention on the Transmission of Legal Aid Applications. Legal aid can be obtained to assist with the translation and preparation of applications for legal aid in another country, provided it is a signatory of the Strasbourg Convention. The Legal Aid Board and the Scottish Legal Aid Board also transmit applications for civil legal aid to the

appropriate authority abroad. There is currently no provision for other extra costs, such as translating other legal documents, or travel costs of witnesses.

In Northern Ireland, the Northern Ireland Law Society is the designated body for transmitting applications abroad. In some cases it has covered both the cost of translation and the expenses of expert witnesses.

The Commission asks about the best means of ensuring that any extra costs of litigating abroad do not constitute a barrier to justice. The option of a Community funding mechanism seems both viable and preferable, although this will need more detailed consideration. The suggestion that the Home State meet the applicant's pre-litigation costs could bring difficulties.

#### Effective access to an appropriately qualified lawyer

In England and Wales, a Community Legal Service Directory (which will list legal service providers) will be available on the Internet and in a hard copy format from April 2000. It will show which providers are contracted to do legal aid work and in what categories.

There will be no equivalent Directory in Northern Ireland. However, since the Northern Ireland Law Society handles legal aid applications, information on providers will still be available.

There may be difficulties in the Commission's suggestion to tie contracting in with a network of lawyers prepared to take on cases in other Member States on a legal aid basis. The Government will wish to address this in its response to the Commission.

#### Technical procedures

The section on 'Technical procedures' relates to the Strasbourg Convention and its operation in practice. The Commission focuses on making it easier to apply for legal aid in another country, for example through the standardisation of forms.

This is likely to cause problems for UK legal aid schemes. While there is a standard form for the transmission of applications, applicants seeking legal aid in the UK need to fill out a separate application form as well, because the statutory nature of the schemes requires specific information to be provided to show that the application passes the means and merits tests. Other Member States' schemes are organised differently. Any move to a standard set of forms could make it harder for legal aid authorities in the UK to be sure that all cases qualified.

#### Reform of the national legal aid systems and alternative means of ensuring access to justice

The Commission's aim is to establish minimum standards in cross-border cases. We do not disagree with this in principle. However, the Commission should not force Member States to provide legal aid for all categories of case or prevent them from prioritising spending. The Government is committed to increasing access to justice for all through the development of conditional fees and other ways of funding the

resolution of disputes, and to targeting public funds on the areas of greatest need. This point will also be covered in more detail in the Government's response.

#### **REGULATORY IMPACT ASSESSMENT**

Were the proposals canvassed to be implemented, they would affect the availability of legal aid and the mechanisms for applying for it. The impact on businesses is likely to be negligible.

#### **FINANCIAL IMPLICATIONS**

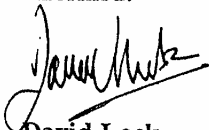
None as yet.

#### **CONSULTATION**

No previous consultation.

#### **TIMETABLE**

The Commission has asked for comments on the consultation paper by 31 May. The UK Government will be issuing a response. The Committees will be kept informed.



David Lock  
Parliamentary Secretary  
Lord Chancellor's Department

23.3.2000

## Justice and Home Affairs Committee

### Schedule of Meetings between Easter and Summer recesses

Note by the Clerk

DATE	TIME	VENUE	
Wednesday 26 April	9.30 – 12.30	Chamber	
Tuesday 2 May	9.30 – 12.30	The Hub, Castlehill	
Wednesday 10 May	9.30 – 12.30	CR1	
Monday 15 May	1.30 – 4.30	CR1	
Monday 22 May	1.30 – 4.30	CR1	
Tuesday 30 May	9.30 – 12.30	CR1	
Wednesday 7 June	9.30 – 12.30	Festival Theatre	
Tuesday 13 June	9.30 – 12.30	CR1	
Tuesday 20 June	9.30 – 12.30	Chamber	N.B. additional slot if required
Wednesday 21 June	9.30 – 12.30	CR1	
Tuesday 27 June	9.30 – 12.30	CR1	
Tuesday 27 June	1.30 – 4.30	CR1	N.B. additional slot if required
Wednesday 5 July	9.30 – 12.30	CR1	

Note: The Chamber is out of use from 1 May – 12 June 2000.

Please also note that the above is a list of slots reserved for the Committee, not a list of agreed meetings. The final decision about whether the Committee utilises a particular slot and, if it does, when the meeting begins, is for the Convener, and will be announced on the Agenda for a particular meeting. Note also that room allocations and times may change at short notice.

19 April 2000

ANDREW MYLNE

## Justice and Home Affairs Committee

### Forward Programme Easter – Summer 2000

#### Note by the Clerk

The table below shows how the three key items of business referred to the Committee and requiring to be dealt with by the summer recess might be accommodated in the slots available to the Committee.

Items marked in italics are not items of Committee business, and some are speculative at this stage. In particular, the indication of items of business for the Parliament should not be interpreted to prejudge decisions of the Bureau about timetabling – although they indicate when certain proceedings would have to take place if the Executive's preferred timetable is to be met. Some of the items listed below are provisional at this stage. In particular, a number of prospective witnesses to whom invitations have been issued have not yet confirmed their ability or willingness to attend on a particular date. These are indicated in brackets.

<b>Date</b>	<b>Budget 2001-02</b>	<b>Intrusive Surveillance Bill</b>	<b>ECHR Bill</b>
Wednesday, April 26	Evidence from: Scottish Executive Crown Office Victim Support		
Tuesday, May 2	Evidence from: Law Society (SLAB) (Sheriffs' Association)	<i>NB: Draft Bill expected to be published on 5 May</i>	
Wednesday, May 10	Evidence from: Minister for Justice	Stage 1 evidence from: Minister for Justice Alan Miller, Scottish Human Rights Centre (Telecoms/internet)	<i>NB: Bill expected to be published on 10 May</i>
Monday, May 15		Stage 1 evidence from: (Police) (Law Society)	Stage 1 evidence
Monday, May 22	Consideration of draft report		Stage 1 evidence
Tuesday, May 30	<i>NB: Committee Report to be sent to Finance Committee by end of this week</i>	Consideration of draft report ( <i>Stage 1 report published by end of week</i> )	(Stage 1 evidence, if necessary)
Wednesday, June 7			Consideration of draft report ( <i>Stage 1 report published by end of week</i> )

Tuesday, June 13		Stage 2	<i>Stage 1 debate in the Parliament this week?</i>
Wednesday, June 21			Stage 2
Tuesday, June 27			Stage 2
Wednesday, June 5		Stage 2	<i>Stage 3 in the Parliament this week?</i>

### Other business

The following petitions have been referred to the JHA Committee. These are either in progress and require completion or have yet to be discussed.

PE14 by the Carbeth Hutters' Association – report to be published shortly.

PE29 by Alex and Margaret Dekker – the Dekkers' response to the Lord Advocate's letter has been circulated to the Committee for comment.

PE55 by Tricia Donegan – awaiting further consideration (possibly with PE29).

PE71 by James and Anne Bollan – the Committee will consider this petition further once it has received a response from SLAB.

PE83 by Concern for Justice – to be discussed by the Committee.

PE89 by Eileen McBride – the Committee agreed to write to the Minister for Justice. Further consideration of this petition will take place once a response has been received.

PE102 by James Ward - to be discussed by the Committee.

PE124 by Contact Rights for Grandparents - to be discussed by the Committee.

The following negative instrument has been referred to the Committee for consideration:

Census (Scotland) Regulations 2000.



Enquiries : 0171-219 3276  
Fax : 0171-219 6606  
Direct Line : 0171-219

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FROM: the Chairman

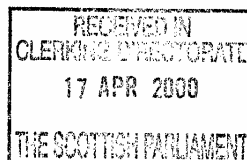
## HOME AFFAIRS COMMITTEE

COMMITTEE OFFICE  
HOUSE OF COMMONS  
LONDON SW1A 0AA

13 April 2000

HAC 1999/2000 - 274

Roseanna Cunningham MSP  
Convener  
Justice and Home Affairs Committee  
The Scottish Parliament  
Edinburgh EH99 1SP



Dear Roseanna,

I am pleased to enclose a copy of the Home Affairs Committee's Second Report, *Controls over Firearms*, which is published today.

The Committee has looked at the way in which firearms legislation is framed and implemented across England, Scotland and Wales. As we note in the Introduction, most aspects of firearms legislation are reserved to the Secretary of State, though there are certain functions for which the Scottish Executive has responsibility, not least in its oversight of the administration of firearms licensing by the police. We make a number of recommendations about the overall conduct of firearms licensing at paragraphs 189 to 210.

The Association of Chief Police Officers of Scotland, the National Farmers' Union of Scotland and the Scottish Countryside Alliance submitted evidence on firearms controls and the operation of the Firearms Acts, which we have printed. We did not consider it appropriate to make any specific recommendations in respect of Scotland. However, we understand that the Home Office Minister responsible for firearms matters, Charles Clarke MP, has been in correspondence with the Minister of Justice about the matters we have been considering in the course of our inquiry.

I hope that you and your Committee may find our report of interest.

Sincerely,  
  
Robin Corbett MP  
Chairman

cc: Andrew Mylne Esq  
Clerk to the Justice and Home Affairs Committee

Encs.



# PARLIAMENTARY DEBATES

(HANSARD)

21 FEBRUARY 2000

Written Answers

812W

## Firearms

**Mr. Alexander:** To ask the Secretary of State for the Home Department what plans he has to discuss with the Scottish Executive changes in the legislation governing the use and possession of firearms. [110495]

**Mr. Charles Clarke:** The Government have no immediate plans to change the laws governing the possession and use of firearms, but existing controls will be kept under close scrutiny to see if there is anything further which needs to be done to protect public safety. As part of this process, the Home Office remains in close contact with the Scottish Executive on a wide range of policing issues, including firearms controls as well as other issues of mutual concern. I have recently corresponded with the Scottish Minister of Justice about

the matters currently being considered by the Home Affairs Committee inquiry into controls on firearms and shall certainly wish to consult further and take into account the view of the Scottish Executive before responding to any recommendations.

**Mr. Alexander:** To ask the Secretary of State for the Home Department what recent estimate he has made of the number of people in the UK in possession of firearms. [110496]

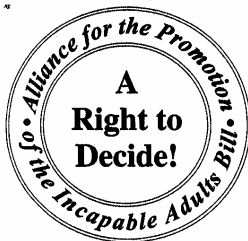
**Mr. Charles Clarke:** Records are kept of the number of people holding firearm and shotgun certificates at the end of each year, and the figures for these as of the end of 1998 are as follows:

	<i>Firearm Certificates</i>	<i>Shotgun Certificates</i>
England and Wales	131,900	627,600
Scotland	31,072	63,100

Some individuals within these totals may hold both firearm and shotgun certificates. These figures do not take into account the ownership of low-powered air weapons which do not require a certificate.

Firearms in Northern Ireland are recorded against the fiscal year and a single type of Firearm Certificate applies to firearms, shotguns and air weapons. At the end of March 1999, there were 83,229 certificates on issue in Northern Ireland.

These figures do not include firearms possessed by Government agencies, commercial bodies or by institutions such as museums. Nor do they include any estimate of firearms in criminal hands.



24/00/15/8  
**Principal Spokesperson**  
Adrian D Ward MBE LLB

**Secretariat:**  
Jan Killeen  
Alzheimer Scotland  
Action on Dementia  
22 Drumsheugh Gardens  
Edinburgh EH3 7RN  
Tel: 0131 243 1453  
Fax: 0131 243 1450

4 April 2000

Roseanna Cunningham MSP  
Convener of the Justice & Home Affairs Committee  
The Scottish Parliament  
EDINBURGH  
EH99 1SP

Dear Ms Cunningham

***Adults with Incapacity (Scotland) Bill***

I am writing on behalf of Alliance members to congratulate and thank you and members of the Justice & Home Affairs Committee for the vital contribution made to the smooth passage of the Bill into legislation on 29 March 2000. We are delighted with the outcome which represents a landmark in the advancement of the rights of Scotland's most vulnerable citizens.

We have very much appreciated the diligent and detailed consideration given to the evidence presented by the Alliance as a whole and to individual organisations in membership. We believe that high quality legislation has been achieved through a process which has enabled improvements to be made in a far more democratic and inclusive fashion than would have been possible if the Bill been taken through Westminster.

We must, however, register our regret that Malcolm Chisholm's amendment to s47 lost the vote when this was debated on 29 March. We are particularly concerned that the right of appeal by anyone having an interest in the welfare of the adult may invite challenges from pressure groups and that this may delay treatment and cause distress to both the patient and the authorised person. We understand that the Committee will have a key role in monitoring the implementation of the Adults with Incapacity (Scotland) Act and request that particular attention is given to section 47. This might also be a suitable area for research for the Chief Scientist's Office. It is possible that the whole issue may need to be revisited in the light of experience.

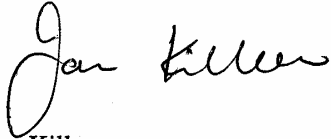
Now that the Alliance has achieved its goal we are considering the future. There is demand from our members to continue, at least until the implementation stage. We are therefore considering if we can play a useful part in the consultation process by producing briefings and disseminating information on codes of practice and regulations. Please let me know if you feel this might be useful to the Committee.

I know it is early days, but it would be helpful to have some idea of how the Committee sees its future work in relation to the Act.

Once again, many thanks for your support, we regard the consensus for this legislation as a magnificent achievement by the Scottish Parliament.

With best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jan Killeen'. The signature is fluid and cursive, with the first name 'Jan' being more prominent than the last name 'Killeen'.

Jan Killeen  
on behalf of the Steering Group

Adrian Ward MBE LLB  
Peter Davies  
Hilary Patrick  
David McClements  
Liz Craigmyle  
May Dunsmuir

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**Members of the Steering Group**

Alzheimer Scotland - Action on Dementia  
ENABLE

**National Organisations**

Age Concern Scotland  
Assist Scotland  
Autism (Scotland)  
Bield Housing Association  
British Association of Social Workers  
Camphill Scotland  
Capability Scotland  
Carers National Association  
Crossroads (Scotland)  
Depression Alliance Scotland  
Disability Scotland  
Head Injuries Trust for Scotland

**Local Organisations**

Alzheimer's Disease Research Centre  
Angus Council Social Work Department  
Angus Mental Health Association  
Argyll and Bute Hospital - Elderly Care Unit  
Borders Community Health Services NHS Trust  
Borders Dementia Carers Panel  
CARD Carers Centre  
Care Aberdeen  
Carers of West Lothian  
Central Fife Association for Mental Health

**Professional Firms**

Anderson Strathern WS Solicitors  
Balfour and Manson Solicitors  
Barton and Hendry Solicitors  
Tho. and J.W. Barty Solicitors  
Bradleys WS Solicitors  
Buchanan Dickson Frame Solicitors

Scottish Association for Mental Health  
Scottish Head Injuries Forum

**Key Housing**

Manic Depression Fellowship Scotland  
Mental Welfare Commission for Scotland  
The National Autistic Society  
National Schizophrenia Fellowship  
PAMIS (Profound and Multiple Impairment Service)

**Quarriers**

Rehab Scotland  
The Richmond Fellowship Scotland  
Royal College of General Practitioners  
The Royal College of Nursing

Dumfries & Galloway Council Social Services  
Department

Dundee Association for Mental Health  
East Kilbride Older People's Team, SWD, South  
Lanarkshire Council  
East Renfrewshire Council (Social Work)  
Eastwood Mental Health Forum  
ELCAP  
Falkirk and District Association for Mental Health  
Fife Mental Health Survivors Group  
Garvald Centre (Edinburgh)

Caesar and Howie Solicitors  
Henderson Boyd Jackson WS Solicitors  
Legal Services Agency  
Maclay Murray and Spens Solicitors  
McCash and Hunter Solicitors  
Murray and Donald Solicitors

The Law Society of Scotland

Royal College of Psychiatrists, Scottish Branch  
Scottish Advocacy Workers Forum  
Scottish Association of Health Councils  
Scottish Council for Single Homeless  
Scottish Directors of Public Health  
Scottish Down's Syndrome Association  
Scottish Health Advisory Service  
Scottish Human Rights Centre  
Scottish Huntington's Association  
Scottish Mental Health Development Centre  
Sense Scotland  
Turning Point

Glasgow Association for Mental Health  
Glasgow City Council Legal Services  
Department

Headway Glasgow  
Inverclyde Association for Mental Health  
Lanarkshire Association for Mental Health  
Minerva Housing Association  
Montview  
Renfrew Association for Mental Health  
Trust a Carers Connection  
VOCAL

North Ayrshire Community Law Centre  
Russel and Aitken, Solicitors  
Sutherland and Co Solicitors  
Sturrock and Armstrong Solicitors  
Turnbull and Ward Solicitors  
A C White Solicitors

**CROWN OFFICE AND PROCURATOR FISCAL SERVICE**

**STRATEGIC PLAN 2000 - 2003**

## Strategic Aim

As a department of the Scottish Executive, we aim to play a pivotal role in the achievement of the purpose of the criminal justice system of maintaining the security and confidence of the people of Scotland by providing just and effective means by which crimes may be investigated and offenders brought to justice.

## Objectives

- To provide the sole public prosecuting authority in Scotland, which, in the public interest, ensures that all crimes made known to the Procurator Fiscal, including cases of serious and complex fraud, are investigated and that effective and consistent use is made of the range of prosecution options, alternatives to prosecution and provisions for the confiscation of proceeds of crime;
- To investigate all sudden deaths made known to the Procurator Fiscal and, in appropriate cases, conduct public enquiries;
- To investigate independently all complaints of criminal conduct by police officers;
- Through the Scottish Charities Office, to supervise charities and investigate concerns about misconduct or mismanagement in the charitable sector;
- Through the Office of the Queen's and Lord Treasurer's Remembrancer, to administer property falling, as *bona vacantia* or treasure trove, to the Crown as *ultimus haeres* ('ultimate heir').

## Values

- **Impartiality** - decisions will be impartial, fair and timely and taken on an independent, objective and professional assessment of the evidence available.
- **Thoroughness** - the investigation, preparation and presentation of cases will be carried out thoroughly, critically and accurately.
- **Integrity** - the professional integrity of the Department's staff will be maintained by:
  - Being open with the court, and fair and dispassionate in the prosecution of cases in court;
  - Disclosing to the defence any information considered material to the defence;
  - Preserving the confidentiality of reports and investigations;
- **Sensitivity** - the Department will be sensitive to the needs of the public, including victims, next of kin and witnesses;
- **Co-operation** - the Department will seek to maintain effective working relationships with other agencies in the criminal justice system; and
- **Professionalism** - the Department is committed to maintaining high quality performance by all staff.

## **Overview**

The Crown Office and Procurator Fiscal Service is a department of the Scottish Executive, with an aim, vision and values that are consistent with those of the Executive as a whole.

In planning for the future as part of a forward-looking criminal justice system, our intention is to deliver our objectives effectively and efficiently. We seek to identify areas where a joint approach with partners in the criminal justice system will enhance effective service delivery, to build constructive working relationships with other departments and agencies and to work together to achieve common goals.

The incorporation of the European Convention on Human Rights (ECHR) has brought new challenges to the investigation and prosecution of crime. The significant preparatory work on research, review and training has reaped reward. Where it was deemed necessary, departmental practice was adjusted to ensure ECHR compliance. Prosecutors have argued successfully against the vast majority of challenges so far made in criminal courts. The Department's level of preparation for ECHR incorporation has proved of benefit to all those in the criminal justice system and has been favourably commented upon by informed observers. Nevertheless, decisions on temporary sheriffs, the leading of evidence, delay and section 172 of the Road Traffic Act have required continuing review and further adjustment of practices. We anticipate that there may be future challenges that will require to be faced and recognise that the number and variety of ECHR challenges is likely to increase when the Human Rights Act, which imposes new duties on all public bodies, comes into force in Autumn 2000. There may be resource implications from future challenges.

The Department maintains its commitment to prioritising the investigation and prosecution of serious crime. A review of working practices in relation to sexual offences by a team set up within the Department made recommendations about improving practices, in particular in relation to inter-agency working methods. We will follow up on this work during the period of this plan. We also continue to participate in Executive initiatives that reflect the Government's priorities in tackling serious crime. The Department is represented in the Scottish Partnership against Domestic Abuse and on the Expert Panel on Sex Offending. The work of those groups will inform development of future policy in these areas.

The Government plans to legislate to make matrimonial interdicts available to non-marital partners and ex-spouses. Given the Procurator Fiscal's role in bringing breach of interdict proceedings in such cases, extension of the provisions will have resource consequences for the Department. Consideration is also being given to the adequacy of existing criminal law to deal with stalking and harassment offences.

The Government has attached particular priority to tackling drug misuse and drug crime. The recent creation of the Drugs Enforcement Agency (DEA) provides an opportunity for effective communication of drugs intelligence information to inform drugs prosecution

policy and practice (see page 7). With its remit to target organised crime and arrest drug suppliers and traffickers, the DEA will also impact on the number and complexity of serious cases requiring investigation and prosecution by the Department. This is an area in which there has been steadily increasing pressure in recent years. The period of the previous departmental strategic plan showed a significant incremental increase in the number of reports of serious crime received by procurators fiscal. ECHR demands have also impacted on the work requiring to be done in individual cases. This is one area where investment in enhanced information technology will assist in effecting improvements in the quality and timeliness of work produced (see page 13)

IT and the development of a dedicated software package for the storage, retrieval and display of documents in court has significantly assisted prosecutors in preparing the case against the two Libyans accused of the bombing of Flight Pan Am 103 which exploded over Lockerbie in December 1988. Significant effort and resources have been applied to the preparation of the case. The trial, which will make Scottish legal history, is scheduled to commence in the Netherlands in May 2000.

The Department is concerned to ensure that effective and consistent use continues to be made of the range of alternatives to prosecution, including fiscal fines. We regard the fiscal fine as a valuable option in the range of marking alternatives available to procurators fiscal. It is an appropriate response to deal swiftly and efficiently with a number of minor offences. Full support has also been given to the development and piloting of 100% funded diversion schemes. Future policy development will be informed by the evaluation of those projects.

The Department is committed to making full use of the legislative provisions for confiscation of the proceeds of crime. There has been a steady increase in this work over recent years. We are contributing to consultations on proposals for civil confiscation, alert to the potential impact of such a scheme on departmental resources.

As Lord Advocate, Colin Boyd QC has confirmed his support for the publicly stated commitment made by his predecessor to enhancing the service provided to victims and witnesses. The Department continues to work towards achieving this (see pages 7&8). A high level departmental Victims and Witnesses Steering Group oversees work in this area, developing policy, reviewing departmental guidance and steering the development of relevant training programmes. The Department has enhanced links with Victim Support Scotland and other voluntary agencies representing victims' interests and works with them and colleagues in the Justice Department and the Scottish Court Service to improve the provision of information and support services to victims and witnesses. A feasibility study commissioned jointly by the Lord Advocate and the Justice Minister to look at the Lord Advocate's proposals for a victim service for Scotland is due to report in May 2000. In parallel with the study, the Regional Procurator Fiscal at Aberdeen is to set up a pilot initiative to test a model of a Crown service providing enhanced support for victims and next of kin in serious cases. Implementation of any nationwide victim service will require dedicated funding.



The Lord Advocate's Working Group on Child Witness Support presented detailed recommendations on ways of supporting children affected by court proceedings, including the development of an integrated child witness support service. The Department also contributed to the work of the inter-departmental Working Group on Vulnerable and Intimidated Witnesses, whose report, "Towards a Just Conclusion" was published in November 1998. Interested parties have been consulted on the recommendations of the reports, which have implications for a number of criminal justice agencies. Work on implementation of the recommendations will require the co-operation of all relevant criminal justice agencies. We will play our part in taking forward this valuable work (see page 8).

A system for the postal citation of witnesses by the Procurator Fiscal, funded by a transfer of resources from the police, has been tested at Glasgow, Ayr and Lanark. Evaluation of the scheme suggests that cross-cutting benefits in terms of resources and efficiency could be gained by extension of the scheme nationwide. This will be dependent on funding being made available.

The Department's commitment to practical action to make the principle of racial equality a reality has been reflected in: the issue of guidance to procurators fiscal on the prosecution of racist crimes (in consultation with the Commission for Racial Equality); the translation of witness leaflets into six ethnic minority languages; the organisation of a detailed programme of racial awareness training for delivery to all staff; and a departmental contribution to the preparation of the Scottish Executive's action plan in response to the Stephen Lawrence Inquiry. Our commitment will continue (see pages 7 & 8).

The UK Government Race Relations (Amendment) Bill is expected to become law in 2000. The Department is committed to complying with the provisions of the Bill. The Department is also implementing the Data Protection Act 1998, which came into force on 1 March 2000. In addition, we are contributing to the preparation of the Scottish Executive's planned Freedom of Information Bill. Each of these measures is likely to involve increased requests from members of the public for information. We are committed to developing a more open approach, consistent with the requirements of these measures, while recognising the additional burden that this is likely to place on the Department.

We recognise the importance of contributing to the investigation and prosecution of crime in Europe and worldwide through the provision of international legal assistance and the value of direct contact between international prosecutors in facilitating this. The Department is part of the European Judicial Network of prosecutors and participates in the Eurojustice Conferences of senior prosecutors from all EU states, each of which has made a significant contribution to facilitating the provision of mutual legal assistance among European countries. We are also continuing to contribute to the ongoing review of the European Convention on Mutual Legal Assistance. We are committed to playing our part in the fight against cross-border crime and to making an effective contribution to initiatives taking forward the conclusions of the European Council meeting at Tampere in

October 1999. In the worldwide arena, we participate actively in the work of the International Association of Prosecutors and the Heads of Prosecution Conference.

The Department has made a major contribution to the Integration of Criminal Justice Information Systems Project (ISCJIS), through development and implementation of SOSIV, our ISCJIS compliant computer system. Full implementation of the ISCJIS loop is expected to be completed by the end of 2000. Internally, implementation of SOSIV and development of the departmental intranet and internet sites are first steps on the road towards the office of the future. To maximise the potential for developments in IT to improve the Department's level of service delivery, in keeping with the Modernising Government agenda, it will be necessary to make significant investment this area. Scotland is ahead of many other countries' criminal justice systems in terms of integration of systems. But liaison with colleagues in the private sector and with prosecutors abroad has shown that there is much scope to modernise and streamline working systems and practices in the Crown Office and Procurator Fiscal Service through greater investment in IT. This will improve quality, timeliness and service delivery and will reduce reliance on cumbersome and resource-intensive administrative processes.

The current planning process takes place against the backdrop of the Government plans for Civil Service reform. The Department has made considerable progress already in each of the areas covered by the six key themes of the reform agenda. We will continue to develop this work within the Scottish Executive framework.

The Department has been funded for its work over the period of the last strategic plan and during the initial stages of this Plan by the Comprehensive Spending Review settlement in 1998, which made provision of £50m for each of the three years from 1998-99 to 2000-2001. Achievement of the goals set in this Strategic Plan will depend upon continuation of adequate funding and, as noted, some of the challenges and planned initiatives will require additional funds.

## *Achieving our objectives*

### **1. RESPONSE TO REPORTS OF CRIME**

With a programme of ongoing review, training and guidance, we will continue to ensure compliance of prosecution policy and practice with the European Convention on Human Rights.

- We will encourage and respond to cross-cutting measures to improve co-ordination and performance in the criminal justice system as a whole.
- We will maintain effective liaison with the police at high level. We will seek to improve co-ordination/liaison at local level to ensure co-ordinated approaches to local enforcement initiatives.
- In association with ACPOS, we will monitor the operation of new guidance on the preparation of police reports and statements and will finalise and implement a protocol for the reporting of minor offences. We will contribute to police training in these areas.
- We will work with non-police reporting agencies to achieve electronic mailing of ISCJIS-compliant offence reports by the end of the Plan period.
- We will continue to make effective use of the range of available alternatives to prosecution. Informed by research into the 100% funded diversion schemes, we will, by December 2000, review and revise guidance to procurators fiscal on diversion from prosecution. We will keep under review policy in relation to the use of fiscal fines.
- We will publish a prosecution code, setting out the range of options available to procurators fiscal in dealing with reports of crime and the criteria for making decisions.

We will continue to give priority to reports of serious crime. Prosecution policy and practice must take account of changing circumstances and priorities of the public and the elected Government. In the period covered by this Plan, it is our intention to focus in particular on the following areas of serious crime:

- **Crimes of violence, including domestic violence.**
- **Sexual offences**
- **Drug related crime**
- **Racially motivated crime**

#### **Crimes of violence**

- We will continue to monitor policy and practice in relation to offences of domestic violence reported to procurators fiscal. Informed by inter-agency discussions, in particular in the Scottish Partnership on Domestic Abuse, to which we will continue to contribute, we will, by June 2000, prepare and issue updated instructions to

procurators fiscal in this area and will develop and implement a programme of awareness training by September 2000.

- We will respond to any changes in the law in relation to matrimonial interdicts and stalking and harassment, the effectiveness of our response being dependent on the adequacy of available resources.

### **Sexual offences**

- We will keep under review prosecution policy and practice in relation to sexual offences, taking account as appropriate of relevant conclusions of the Expert Panel on Sex Offending, to whose discussions we will continue to provide input.
- We will, by 1 September 2000, produce an information leaflet for victims of rape.

### **Drug-related crime**

- As part of our contribution to the implementation of the Government's policy on tackling drug misuse, we will, by 1 September 2000, conduct a review of prosecution policy and practice in relation to the prosecution of drug-related crime, and implement any changes required.
- We will establish effective working relations with the DEA including issuing appropriate guidance in relation to investigation and reporting of offences.
- At local level, we will continue to participate actively in Drug Action Teams.

### **Racially motivated crime**

- In order to ensure the effectiveness and appropriateness of our response to reports of racial crime, we will keep our departmental guidance under review, informed by liaison with the Commission for Racial Equality and local racial equality and other community groups and by inter-agency discussions in the Scottish Executive's Stephen Lawrence Inquiry Steering Group.

### **Improving services to victims, witnesses and next-of-kin**

We will continue, as a department and with our partners in the criminal justice system, to work towards improving services to victims, witnesses and next-of-kin. In particular:

- We will continue to make an effective contribution to the work of the inter-departmental Victims Steering Group and its associated sub-groups.
- With colleagues in the Justice Department, we will consider the outcome of a joint feasibility study on the creation of a dedicated witness service and will implement any agreed actions, subject to the availability of adequate resources.
- We will, by summer 2000, set up a pilot initiative at Aberdeen providing support and assistance to victims and bereaved next-of-kin in serious cases. An evaluation of the

scheme will be considered in light of the findings of and agreed actions following the feasibility study, and the availability of resources.

- Following extensive consultations, and with our partners in the criminal justice system, we will work towards implementation of agreed recommendations of the Report of the Lord Advocate's Working Group on Child Witness Support and the Report of the inter-departmental Working Group on Vulnerable and Intimidated Witnesses.
- We will review, update and improve departmental literature providing information to witnesses and next-of-kin, making use of the departmental website. In addition, we will work with colleagues in the Justice Department and other criminal justice agencies towards creating an automated service for the provision of case progress information to victims of crime.
- We will continue to liaise closely with Victim Support Scotland and with other voluntary agencies representing the interests of victims of crime to facilitate exchange of advice, promote mutual understanding and obtain and provide input to relevant training initiatives.
- We will develop a rolling programme of victim awareness training for legal and precognition staff to be delivered from July 2000. We will ensure that all new staff receive victim awareness training as part of their induction process.
- We will, by July 2000, issue updated guidance to staff on best practice in dealing with victims of crime.
- With colleagues in the Scottish Court Service, we will continue the rolling programme of joint staff training on customer care. Informed by research that has been commissioned, we will review operation of the Joint Statement on Crown witnesses.
- We will enhance our programme of anti-racist training. We will ensure that a programme of anti-racist training forms part of the mainstream training of all staff and that new staff are provided with this as part of their induction process.
- To ensure ongoing dialogue and promote mutual understanding with ethnic minority communities, we will maintain and improve liaison with the Commission for Racial Equality and with local racial equality and other community groups.
- We will monitor the use of translated versions of *Being a Witness* leaflet and seek views on its effectiveness from ethnic minority communities. We will ensure that new leaflets being produced by the Department are available in translated versions.
- We will work to improve liaison at national and local level with voluntary agencies and interest groups supporting victims of domestic violence.
- We will instigate, with Justice Department, police and the Scottish Court Service, a review of the provision of deaf and sign language interpreters to ensure that services meet the needs of witnesses – and accused persons – who require them and the interests of the criminal justice system.

### ***Operational targets***

To assist in ensuring that the Department contributes to the effective and efficient running of the criminal justice system, we have developed performance targets in relation to certain key tasks. Performance against targets is monitored and published annually in the departmental annual report.

In serious cases, we are subject to strict statutory time limits on the investigation and prosecution of offences. It is vital that cases are not lost because of failure to comply with those time limits.

**We will therefore serve 100% of indictments within the statutory time limits.**

In less serious cases, it is important to ensure that cases are dealt with efficiently and expeditiously. The public interest and fairness to accused persons require that decisions not to take proceedings or to proceed by way of an alternative to prosecution should be taken and implemented as quickly as possible. Similarly, to ensure that cases are dealt with efficiently, where summary proceedings are instituted, the prosecution should get under way as quickly as possible. Thus:

**Where the accused is not in custody, we will take and implement decisions in 80% of cases within 7 weeks of receipt of an offence report.**

**Where a decision has been taken to commence summary proceedings, we will issue 75% of summary complaint citations for first court hearings to be held within 9 weeks of receipt of an offence report.**

Citation to give evidence in court is a significant disruption for members of the public in relation to their employment and private lives. We recognise the need to provide sufficient notice of required court attendance. We have an existing target in relation to service of witness citations in summary business, which we will continue to seek to meet. But we recognise the need to review the target. We are also conscious of the need to review arrangements for citation of witnesses to the High Court and to Sheriff and Jury trials, where citation can cause particular disruption. If postal citation is to be implemented nationally, we will carry out a customer survey to inform future decisions in this area. Accordingly:

**We will, by 1 January 2001, develop and introduce a target for service of solemn witness citations.**

**Pending review of summary witness citation procedures, we will issue 75% of citations for service on witnesses in summary cases at least 6 weeks before the trial date in non-custody cases.**

## **2. INVESTIGATION OF DEATHS**

- To promote public confidence and ensure consistency in the investigation of road traffic deaths, we will conduct a thematic review of the way in which such cases are dealt with by the Department, to be completed by April 2001.
- We will investigate deaths associated with overdose of controlled drugs as potential culpable homicide cases and seek to identify the supplier of the relevant substance.
- We will continue to improve arrangements for dealing with next-of-kin. Informed by a review of current practice in this area, we will revise the guidance issued to procurators fiscal. We will seek feedback from next-of-kin on the effectiveness of the arrangements to inform the review.
- We will produce a range of leaflets for next of kin explaining the role of the Procurator Fiscal in deaths investigations.
- We will monitor the effectiveness of revised contracts for the provision of forensic pathology services, in particular to ensure compliance with targets for timely submission of post mortem reports.

### ***Performance Targets***

The involvement of the Procurator Fiscal in non-suspicious death enquiries can be distressing for relatives and next-of-kin. In many cases, the Procurator Fiscal's involvement will take no more than 1 or 2 days. However, in other cases, a more detailed investigation requires to be carried out, involving conduct of post mortem examinations, precognition of witnesses and sometimes obtaining specialist reports. In certain cases, procurators fiscal require to submit reports to Crown Office for instructions. We have set targets to ensure that every effort is made to conclude such enquiries as expeditiously as possible. Achievement of those targets can, however, be affected by time taken to obtain reports requested. We will ensure that next of kin are kept advised of progress and provided with a progress report within 6 weeks of the matter being reported to the Procurator Fiscal.

**We will complete 80% of death investigations in cases where no report to Crown Office is required within 6 weeks of receipt of a full report.**

**We will submit reports in 70% of cases that require to be reported to Crown Office within 12 weeks of receipt of report.**

### **3. INVESTIGATION OF COMPLAINTS AGAINST THE POLICE**

- We will implement any improvements in practice identified by the departmental thematic review of arrangements for the investigation of complaints against the police.
- We will maintain arrangements for ongoing review of arrangements through annual reports by Regional Procurators Fiscal to the Solicitor General and liaison between Regional Procurators Fiscal and Deputy Chief Constables.

#### ***Performance Targets***

It is important, both for members of the public who make complaints of criminal conduct against police officers, and for those officers complained against, that investigations are concluded expeditiously, in order that decisions as to proceedings can be taken and implemented with the minimum of delay.

**Regional Procurators Fiscal will therefore complete 80% of complaint against the police investigations within 12 weeks of receipt of a report.**

### **2. SUPERVISION OF CHARITIES**

- The Charities Office will co-operate with and contribute to the work of the independent commission appointed by the executive to review and reform Scottish charity law.

#### ***Performance Targets***

**In investigations into concerns about misconduct or mismanagement in charities, the Charities Office will complete 75% of investigations within 12 months of receipt of the report.**

**In instances where the concerns about charities are being dealt with by the provision of counsel and assistance, the Charities Office will analyse the circumstances and determine the nature of such counsel and assistance in 80% of cases within 3 months of receipt of the initial report.**



## **5. ADMINISTRATION OF PROPERTY FALLING TO THE CROWN**

- Informed by a review of the Office of the Queens and Lord Treasurer's Remembrancer (Q&LTR), we will, by Autumn 2000, establish a Q&LTR unit at the Regional Procurator Fiscal's Office in Glasgow, with a view to extending the model to other regional offices.

### ***Performance targets***

**We will, in 75% of cases, realise and in-gather estates falling to the Crown within 6 months of these being brought to our notice.**

## ***Managing our business***

### **IT**

We plan to invest in IT resources to assist in the improvement of our service delivery and facilitate effective working relationships with our partners in the criminal justice system and the wider Scottish Executive. In furtherance of that objective:

- We will contribute to the development of an Information Age Strategy for the Scottish Executive.
- With the co-operation of all ISCJIS business partners, we will give priority to completion of the roll out of SOSIV to all remaining PF offices by the end of 2000.
- We will play our part with ISCJIS partners in developing an automated victim information service (see page 13).

Recognising that IT can provide considerable scope for quantitative savings as well as better service delivery through improvements in quality and timeliness of work, we will implement a strategy for upgrading departmental IT resources and will:

- Develop systems to facilitate the identification of persistent offenders to assist in selecting the most appropriate and effective disposal avenues.
- Ensure availability of direct access to PF offices via our internet site by the end of 2000
- Provide enhanced IT support for precognition staff.
- Introduce a system for on-line support to legal staff by April 2001.
- Develop a system that provides case progress and status information to managers to support them in achieving departmental targets.

Implementing the strategy will require new investment in addition to the Department's current provision. Streamlining systems with enhanced IT provision has the potential to effect significant long-term efficiency gains.

### **PEOPLE**

#### **Recruitment**

In view of the growth in the seriousness and complexity of crimes reported to us, we have identified a need for a short-term increase of 3% in our workforce.

We also recognise the need to maintain a balance of background and experience in our staff and to enhance the diversity of our staff profile. We shall continue to pursue a policy of recruitment of legal staff at different levels of experience. We are committed to playing our part in the Scottish Executive's achievement of diversity targets as part of the Government's programme of Civil Service Reform. This will include pursuing a departmental strategy of positive action to improve recruitment of ethnic minority and disabled staff.

## **Training & performance management**

The Department was successful in achieving LiP accreditation in 1998. We have developed an action plan for re-accreditation in March 2001.

We recognise the need to equip our staff to undertake the tasks required of them through increased training activity, new development opportunities and an effective performance appraisal system. We also aim to foster and reward talent and to provide development opportunities for high calibre staff.

In addition to identified training requirements in relation to planned policy initiatives, we will:

- Adhere to the goals set in the LiP action plan.
- Continue to provide training for the rollout of PCs and SOSIV to all offices and plan and implement training associated with implementation of our IT strategy.
- Complete a review of the performance appraisal and pay systems by April 2001.
- Provide consultancy support for senior civil service staff to develop their leadership and management skills.

## **RESOURCES**

As we have indicated, the Department's existing resources will require to be strengthened to cover the planning period beyond 2000-2001, to enable us to deliver the commitments in this Plan, in particular in relation to investment in new staff and IT projects.

**Crown Office and Procurator Fiscal Service (CO/PFS)**  
**Note for Justice and Home Affairs Committee**

***Resources***

1. This note updates the Committee on spending outturn for 1999-00 and forward spending plans, as compared to the Departmental Report which presents a particular view based on Government conventions. It also seeks to explain unique aspects of the CO/PFS funding position. Finally, it encloses the new version of the CO/PFS Strategic Plan, which is about to be published. It is hoped that this presentation will assist the Committee in its investigation and recommendations.
2. Prior to devolution CO/PFS was a self-standing UK Department on equal terms with, for example, The Scottish Office. Although it is now a member of the 'Scottish Executive' and obtains its funding through the Scottish Block, the Scotland Act recognises the need for an independent Lord Advocate and prosecution service. It follows - for the sake of public confidence in that fundamental principle - that the funding of the prosecution service must also be independently maintained and not be allowed to become a matter of public or political concern.
3. As a separate department CO/PFS conducted a full review of its activities and funding needs during the Comprehensive Spending Review in 1997-98. In that review it was accepted that the existing PES baseline (forward 3 years) had fallen well below requirements, following several years of public spending constraints. Some new pressures, particularly ECHR, were also recognised, although actual costs have turned out to be higher and new pressures have arisen. A transfer of £0.9m from the Scottish Block was subsequently agreed by the then Secretary of State for Scotland for ECHR measures.
4. The CSR baseline offered an immediate increase in provision to more realistic levels, but it was in the form of a flat forward baseline: indeed the last year declines by £0.2m. It was agreed in the CSR that the only way in which this could meet the Department's need for a rising baseline - in anticipation of rising costs and new pressures - would be for CO/PFS to retain any and all underspends arising over the 3 year period - in other words we gained a global provision for the period up to March 2002. The mechanism for this is 'End Year Flexibility' (EYF) - the retention of annual vote underspends. The CO/PFS position is that the retention of all EYF is essential to our requirements, and our funds and forward plans have been managed on that basis.
5. The provisional outturn for 1999-00 and our forward estimates are attached, showing what we expect to gather as available resources under the CSR agreement, and the estimated net funding requirement. This forecast includes retained EYF, agreed transfers, etc. Although these assumptions result in an improved forward provision as compared to the publication "Investing in You" which shows formally approved baselines, nevertheless it shows a need for significant new funds over the Spending Review 2000 planning period if our requirements, as explained in the Strategic Plan, are to be supported.

**Crown Office And Procurator Fiscal Service**

**Funding Outturn And Forecasts**

**Spending Review 2000**

		CSR				
	1998-99 outturn £000's *	1999-00 provisional outturn £000's	2000-01 plans £000's	2001-02 plans £000's	2002-03 plans £000's	2003-04 plans £000's
Prosecution	42,431	45,500	52,500	53,400	54,400	55,000
Deaths Investigation	2,798	3,000				
Police Complaints	933	1,000				
Charities	465	500				
Q&LTR	No net cost to the Exchequer					
TOTAL	46,627	50,000				
Capital Expenditure	816	1,400	1,300	600	300	300
Net Funding Requirement **				1,000	2,500	1,800

\* 1998-99 excludes £1.5m for forensic pathology grants that are included in later years

\*\* (Assuming retention of all EYF and agreed transfers)

