The Committee will meet at 1.45pm in Committee Room 3.

1. **Declaration of interests:** New members of the Committee will be invited to declare any relevant interests.

2. **Deputy convener:** The Committee will choose a new deputy convener.

3. **Items in private:** The Committee will consider whether to discuss items 7, 8 and 9 in private.

4. **Subordinate legislation:** The Committee will consider the following negative instrument—

   The Civil Legal Aid (Scotland) Amendment Regulations 2002 (SSI 2002/88).

5. **Covenant between local government and the Scottish Parliament:** The Committee will consider a draft covenant between local government and the Scottish Parliament.

6. **Prison visit:** The Committee will consider a report on the Committee’s visit to HMP Peterhead.

7. **Regulation of the legal profession inquiry:** The Committee will consider future options for the inquiry.
8. **Prisons Estates Review:** The Committee will consider its approach to the Prison Estates Review.

9. **Criminal Justice Bill:** The Committee will consider candidates for post of adviser for the Bill.

   Alison Taylor  
   Acting Clerk to the Committee, Tel 85195

The following papers are attached for this meeting:

**Agenda item 4:**  
Note by the Clerk (**SSI attached**) J1/02/10/1

**Agenda item 5:**  
Note by the Clerk J1/02/10/2

**Agenda item 7:**  
Note by the Adviser and the Clerk (private paper) J1/02/10/3  
Correspondence from the Crown Office regarding the regulation of the legal profession inquiry J1/02/10/4  
Journal article by Adviser J1/02/10/9

**Agenda item 8:**  
Note by the Clerk (private paper) J1/02/10/5

**Agenda item 9:**  
Note by the Clerk (private paper) J1/02/10/6

**Papers not circulated:**

Committee members may wish to note that a supplementary submission to the regulation of the legal profession inquiry by the Review Board regarding independent regulation of the accountancy profession is available from the Committee Clerks at Room 3.11, Committee Chambers.

**Item 5:**  

**Item 8:**  
Members may wish to note that the Scottish Executive consultation ‘Proposals for the future of the Scottish Prison Service Estate’ is available from the Scottish Executive web-site at [http://www.scotland.gov.uk/consultations/justice/spsec-00.asp](http://www.scotland.gov.uk/consultations/justice/spsec-00.asp).
Papers for information circulated for the 10th meeting, 2002

SPICe briefing paper (02/30) ‘EU Justice and Home Affairs Policy’  J1/02/10/7

Response by the Law Society of Scotland to the Justice 1 Committee’s legal aid inquiry report  J1/02/10/8

Minutes of 9th meeting, 2002  J1/02/9/M
Background

1. These Regulations amend the Civil Legal Aid (Scotland) Regulations 1996 to make provision for the availability of civil legal aid to a person claiming or having an interest in the property, financial affairs or personal welfare of an incapable adult. Availability of civil legal aid in these circumstances will be based on the resources of the incapable adult.

2. Specifically, regulation 2 of the Civil Legal Aid (Scotland) Amendment Regulations 2002 extends the 1996 Regulations to apply for the purposes of certain proceedings under Part 6 of the Adults with Incapacity (Scotland) Act 2000 (asp 4). Part 6 of the 2000 Act introduces a new system of property, financial and welfare intervention orders and guardianship orders. It is intended that Part 6 of the 2000 Act will be commenced on 1 April 2002.

3. Schedule 5 of the 2000 Act (Minor and Consequential Amendments) provided a new regulation making power to the Legal Aid (Scotland) Act 1986. This power has already been applied to certain proceedings under Parts 1-3 of the 2000 Act by the Civil Legal Aid (Scotland) Amendment Regulations 2001. The Committee considered and noted these Regulations at its meeting on 27 March 2001. This power is now being applied certain proceedings under Part 6 of the 2000 Act.

4. The Subordinate Legislation Committee considered this instrument at its meeting on 12 March and determined that the attention of the Parliament need not be drawn to the instrument (Subordinate Legislation Committee 15th Report 2002).

Procedure

5. Under Rule 10.4, this instrument is subject to negative procedure which means that it comes into force and remains in force unless the Parliament passes a resolution, not later than 40 days after the instrument is laid, calling for its annulment. Any MSP may lodge a motion seeking to annul such an instrument and, if such a motion is lodged, there must be a debate on the instrument at a meeting of the Committee.

6. The instrument was laid on 6 March 2002 and is subject to annulment under the Parliament’s standing orders until 29 April 2002.

7. In terms of procedure, unless a motion for annulment is lodged, no further action is required by the Committee.
JUSTICE 1 COMMITTEE

Draft Covenant between Local Government and the Scottish Parliament

Note by the Clerk

The attached letter from Trish Godman, Convener of the Local Government Committee and draft covenant have been referred to the Justice 1 Committee by the Local Government Committee for comment by 26 April 2002.

The draft covenant outlines the working relationship between local government and the Scottish Parliament and follows on from a recommendation of the Macintosh Commission.

The Justice 1 Committee is invited to consider and comment on the draft document. Thereafter, it is intended that the Covenant should become a topic for committee business in the Chamber, with an accompanying motion that the Parliament approves the Covenant.

The Committee is invited to comment on the draft covenant between local government and the Scottish Parliament.
NMcF/IA

18 March 2002

Ms Jenny Goldsmith
Assistant Clerk, Justice 1 Committee
Room 3.11, Committee Chambers
George IV Bridge
EDINBURGH
EH99 1SP

Dear Ms Goldsmith

JUSTICE 1 COMMITTEE MEETING (29 JANUARY 2002):
REGULATION OF THE LEGAL PROFESSION INQUIRY

You wrote to Alastair Brown about the allegations of corruption made by Scotland Against Crooked Lawyers when they gave evidence on 29 January. In view of the serious nature of those allegations it seems appropriate that I should reply.

The allegations are entirely unfounded. All cases reported to Procurators Fiscal should be dealt with on the basis of the criteria set out in the Prosecution Code. No advantage is given to any particular category of accused person. On the contrary, where the accused is a lawyer and is charged with an offence in connection with the exercise of his/her profession the offence is likely to involve breach of trust and there would be a presumption in favour of prosecution if there is sufficient evidence. It is also unlikely that such an offence would be mitigated by any consideration of ignorance or lack of understanding.

I am not aware of any case in which any other approach has been taken. In my experience, they have, without exception, been investigated thoroughly and, where there has been a sufficiency of evidence, they have been prosecuted unless there have been exceptional circumstances which justify not proceeding. Where members of the Service have found that they have been dealing with a case in which the accused is known to them personally, they have been punctilious in ensuring that the papers are passed to someone who does not know the accused.

INVESTOR IN PEOPLE

A Department of the Scottish Executive
The basis on which Scotland Against Crooked Lawyers gave evidence probably precluded them from identifying particular cases. Nevertheless, if the Committee have particular and identifiable cases drawn to their attention, I shall be happy to have the papers looked out and provide such information about them as is proper (bearing in mind that by definition we are talking about cases which have not been the subject of prosecution).

Yours sincerely

Norman McFadyen
Crown Agent Designate
Letter sent to all subject committee Conveners

6 March 2002

Dear Convener

Covenant between local government and the Scottish Parliament

You may recall that the report of the Commission on local government and the Scottish Parliament (The McIntosh Report) recommended, amongst other things, the establishment of a covenant and joint standing conference between local government and the Scottish Parliament.

Since the establishment of the Parliament, representatives of COSLA, on behalf of local government, and the Local Government Committee have been working towards the establishment of such a Covenant and joint standing conference. I am pleased to say that the attached draft document, which has resulted from that work, has now been endorsed by COSLA on behalf of its member councils and has also been passed for information to those councils who are currently not in membership. The draft text has been approved by the Parliament’s Legal Office.

The Local Government Committee agreed some time ago that once it had been signed off by representatives of local government, the Parliament’s subject committees together with the Procedures Committee should be invited to consider and, if appropriate, comment on the draft document. Thereafter, it is intended that the Covenant should become a topic for committee business in the Chamber, with an accompanying motion that the Parliament approves the Covenant.

I would be grateful if you would arrange for your committee to consider the draft document, and make comments on it if you wish to do so. Comments should be made in writing to Eugene Windsor, Clerk to the Local Government Committee, before Friday 26 April.

cont/
Copies of this letter go to Carol Devon, Director of Clerking and Reporting, Ann Nelson, Director of Legal Services, Elizabeth Watson, Head of Committee Office, Ken Hughes, Head of Chamber Office and the Clerks to the Committees referred to.

Yours sincerely

Trish Godman
Convener – Local Government Committee

cc:
Carol Devon, Director of Clerking and Reporting
Ann Nelson, Director of Legal Services
Elizabeth Watson, Head of Committee Office
Ken Hughes, Head of Chamber Office
Clerks to the Committee
THE SCOTTISH PARLIAMENT AND LOCAL GOVERNMENT WORKING TOGETHER

"THE COVENANT"

COVENANT DEFINING WORKING RELATIONSHIPS AND THE ESTABLISHMENT OF A STANDING JOINT CONFERENCE
INTRODUCTION

1. This Covenant which has been adopted by the Scottish Parliament and Local Government\(^1\) is founded upon a recommendation from the McIntosh Commission which stated that:-

the Parliament and the 32 councils should commit themselves to a joint agreement – which we call a Covenant – setting out the basis of their working relationship; and that they should set up a standing Joint Conference to be a place where parliamentarians and local government representatives may hold a dialogue on a basis of equality.

BACKGROUND

2. Councils, like Parliament, are democratically elected and consequently have their own legitimacy as part of the whole system of governance.

3. It is therefore essential and entirely in keeping with the power sharing and participation principles of devolution that the Parliament should develop a working relationship directly with local government.

4. Based on parity of esteem and the principles underlying the European Charter of Local Self Government, (text of the Charter is annexed) this Covenant sets out the understanding of, on the one hand the Scottish Parliament and on the other local government, of the principles that will underlie relations between them.

5. The arrangements acknowledge the need for the parties to work together in an atmosphere of mutual trust and respect, recognising the value and legitimacy of the role that both have to play in the governance of Scotland.

6. This Covenant does not constitute a legally enforceable contract or create any rights or obligations that are legally enforceable. It is intended to be a broad guidance document, binding in honour only and not an exhaustive text of those issues that might arise.

7. The Covenant is therefore founded upon mutual Respect, with a “Code of Operational Practices” covering Recognition and Relationships while a Standing Joint Conference will monitor Review and Renew the arrangements as appropriate.

---

\(^1\) In this document, the "Scottish Parliament" means the Scottish Parliament and the powers devolved to it in terms of the Scotland Act 1998, and "local government" means the councils constituted under the Local Government Acts and COSLA as the representative organ.
8. In furtherance of the European Charter of Local Self-Government the Parliament recognises the need to secure and maintain a strong and effective system of local government based on their parity of esteem and the principal of subsidiarity, underlying the European Charter of Local Self-Government. The parties also acknowledge and respect each other’s roles and functions, which are distinct and complementary:

- Within the powers conferred by the Scotland Act 1998 the Parliament has responsibility for determining the powers and duties of local government, while the Executive has responsibility for setting the national framework for local service provision.

- Councils have a democratic mandate to ascertain the needs of their communities and the priorities of their electorates; to plan, co-ordinate and ensure the delivery of local services accordingly, within the legal framework laid down by Parliament.

9. It is inherent in the McIntosh report that the Parliament, Executive and local government have a shared responsibility to serve the people of Scotland; and it is the clear intention of the report’s recommendations that so far as possible these several institutions should work in partnership towards this common objective.

10. The parties agree that for the relationship to be effective and meaningful it has as the core objective the establishment of operational arrangements which ensure that local government is fully engaged in all relevant aspects of the Parliament’s work and that working together, sharing information, experiences and views is integral to the whole process.

11. Noting that Her Majesty’s government has signed and ratified the European Charter of Local Self-Government, the parties also agree to work within the framework established by the Charter.

12. The parties agree to work to the Code of Operational Practice set out below.

13. The Covenant may be subject to review from time to time at the initiative of either party.

14. This Code has at its core objective the establishment of clearly defined processes and procedures for engaging local government in all relevant aspects of the Parliament’s work.

15. Primarily through the Parliament’s committee arrangements there will be active involvement of local government on both the principle and practice of any proposals which impact upon local government.

16. The procedures adopted by the Scottish Parliament provide for a high level of consultation and discussion at all stages of the preparation and consideration of legislation, involving interested
bodies and individuals, the Executive and committees of the Parliament. Within that framework:

- The Parliament via its committee arrangements undertakes to facilitate consultation with local government on all proposals which affect or might affect the structure, role, functions and financing of local government. The financial effects of policy and legislative proposals on local government will be given specific attention; as will the impact of cross-cutting developments which span a number of service or policy areas.

- Local government undertakes to provide a considered, co-ordinated and timely response to issues on which it is consulted.

- The Parliament and Local Government undertake to respect confidentiality where that is required or requested; and otherwise to conduct their dialogue openly.

- Consultation with local government will involve both COSLA and individual councils, on the understanding that, where appropriate and applicable, COSLA will undertake to provide a co-ordinated response which takes account of the views of the individual councils. On certain specialised topics some councils will have an interest and others will not: in these cases COSLA will facilitate more targeted consultation.

- Local government will be invited to submit views on the likely costs associated with legislative and other changes which impact on the services provided by local government.

- There will be opportunities for local government to bring to the Parliament’s notice matters on which local government wishes to see legislation introduced or existing legislation amended.

- The parties will support arrangements where appropriate for secondments and/or regular job exchanges between local government officers and Parliamentary staff.

17. The working arrangements will require to evolve as the relationship between the Parliament and local government develops. However, the above represents the anticipated minimum level of participation of local government.

LOCAL GOVERNMENT COMMITTEE

18. The following arrangements will operate in relation to working arrangements between the Parliament’s Local Government Committee and local government, although they may also be taken up in whole or in part by any of the Parliament’s committees:

- observer status for the Committee at COSLA meetings, with an understanding that observers may be excluded where required at private meetings.

- observer status for COSLA at meetings of the Local Government Committee, with an understanding that observers may be excluded where required at private meetings.

- regular meetings between the Committee and Council Leaders to consider issues of mutual interest.
• regular programme of visits to councils by the Committee or their representatives, although specific ground rules need to be set out and agreed for arranging and reporting back on visits.

**MONITORING THE AGREEMENTS**

**REVIEW AND RENEW**

19. In recognition of the key role that local government plays in the governance of Scotland, a Standing Joint Conference will be established with equal numbers (not more than 16 from each side) of representatives from Parliament and local government.

20. The Parliamentary membership of the Conference may include conveners of the Parliament’s Committees and local government membership will be selected annually so that each council will be directly represented during a three year period and the selection process will have regard to the political balance of councils and geographical spread.

21. The main functions of the Conference are to:

- **Review** how the procedures set out within the Covenant are operating in practice and make proposals to **renew** the arrangements where appropriate.

- **Review** how the Partnership Agreement between the Executive and local government is operating in practice and make proposals for changes / improvements where appropriate.

- **Renew** and work towards the promotion of excellence in Government as a whole by improving governance and public service standards across the board. Exploit the opportunity for Parliament and local government to exchange ideas, review existing policy, discuss future policy and consider the impact of legislative changes. Consider views of a strategic nature as well as those of more immediate interest.

22. The Conference will develop its own set of agreed working practices, including the establishment of a clear work programme, procedures and protocols, however the following specific arrangements will apply:

- Conference meetings will be jointly chaired and will be serviced by a secretariat drawn from the Scottish Parliament and Local Government

- Conference meetings will be held on at least 2 occasions per year (provisionally April and October) with arrangements being made for special meetings as required

- Members of either side can initiate a special meeting of the Conference by presenting a notice of motion signed by at least 5 members of the Conference.

- Policy issues impacting upon local or central government services may be placed on the agenda by either side

- With agreement of the joint chairs any Minister, MSP, council or relevant body or person with a specific interest, has the right to submit papers on agenda items, or to be invited to attend and address the Conference
MEMORANDUM OF COMMENTS
BY
THE LEGAL AID COMMITTEE
OF THE LAW SOCIETY OF SCOTLAND
ON THE JUSTICE 1 COMMITTEE
LEGAL AID INQUIRY REPORT
(MARCH 2002)

INTRODUCTION

The Legal Aid Committee, on behalf of the Law Society of Scotland, has considered the Report issued by the Justice 1 Committee and would offer the following comments.

SPECIFIC COMMENTS

The Committee is of the view that there may be a case to extend the scope of legal aid to incorporate collective action, organisations and representative bodies. The Committee recommends that the Executive examine how access to legal aid could be made available to support collective action, organisations and representative bodies and examine what eligibility criteria might be applied in these cases.

This recommendation requires careful consideration. The implementation of such a suggestion would require concomitant changes in substantive law and procedure and needs to be carefully thought out.

The Committee recommends that the Executive should examine how legal aid could be made available to support small claims actions.

The monetary value of small claims is the subject of current review. The Society is of the view that legal aid should not be extended to small claims actions as they are currently provided for. However, if the limits increase and the possibility of suing for personal injury as a small claim remains, then the Society may revise its views.
The Committee is of the view that it would be beneficial to review the range of excepted proceedings to determine whether there is a need for extension. The Committee recommends that the Executive examine how access to legal aid could be made available to support a wider range of tribunals and panels. The Committee also recommends that the Executive examine the most effective form and method of delivery of legal aid for tribunals and panels.

The Society is of the view that the range of excepted proceedings should not be extended. The Society notes that the Scottish Executive has already announced its intention to extend legal aid to proceedings before the Social Security Commissioner, the Child Support Commissioner and the VAT Tribunal. The Society is preparing for these changes.

The Committee recommends that the Executive should further review the qualifying criteria for and consider an extension of the scope of civil legal aid to employment tribunals.

In terms of the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 1997, regulation 3(l), assistance by way of representation is now available before employment tribunals the Law Society welcomes this and the development.

The Committee notes that SLAB is commissioning a research project to estimate any changes in eligibility over the years and to identify any particular groups that do not take up legal aid despite being eligible (paragraph 2). The Committee will examine the findings of the research before considering whether to make any recommendations in this regard.

The Society notes the SLAB research "Legal aid in a changing world". The Society commends SLAB for this research which helps identify some of the issues which need further work.

The Committee is concerned about the current position with respect to eligibility and means testing and recommends that as a matter of urgency the lower capital limit should be uprated in line with inflation since 1983 and uprated on an annual basis thereafter.
The Committee further recommends that the Executive gives serious consideration to the introduction of a tapering of financial eligibility and reports to the Committee on its findings.

The Society is of the view that eligibility upgrading is a key objective for the legal aid system in Scotland. In its evidence to the Justice 1 Committee, the Society indicated that there had been a steady erosion of those eligible for legal aid and that this issue requires to be addressed. Legal aid in a changing world shows that there has been a small decrease in overall eligibility since 1993 and that there has also been a significant shift in balance between those receiving legal aid and without payment of a contribution. Accordingly the Society remains concerned about eligibility for civil legal aid.

The Committee recommends that the Executive should monitor whether the extension of the repayment period results in an increase in the uptake of offers of civil legal aid and report to the Committee on this matter following the end of the SLAB financial year.

The Society has noted the research carried out by SLAB entitled "Legal Aid in a changing world".

The Committee considers that there may be a lack of coherence and the existence of anomalies in the approach to merits testing. The Committee recommends that the merits test should be reviewed as part of a wider review of the legal aid regulations.

The Society agrees with this recommendation.

The Committee recommends that SLAB and the Society work together to develop and implement proposals to help people ascertain who has expertise in specific areas.

This is a more complex issue than would at first appear. The Society will explore with SLAB ways to achieve this aim.

The Committee recommends that SLAB monitor the effectiveness of this measure and report to the Committee in this regard. The Committee also recommends that the lack of expertise in certain areas of the law, in particular social welfare law, should be
addressed by the Executive. The Committee will examine the report of the working group on the community legal service once it is published and expects to see some proposals in this regard contained within that report.

The Society does not accept there is a broad lack of expertise but rather that there are difficulties in identifying those who have the requisite expertise.

This issue is dealt with in the context of community legal services. The Society will discuss any proposals with the Scottish Executive and SLAB.

The Committee recommends that in the context of consideration of a strategic approach to the provision of legal aid services in Scotland the Executive gives careful consideration to the benefits and consequential cost to the legal aid fund of the introduction of a contracting scheme.

Section 33A of the Crime and Punishment (Scotland) Act 1997 provides powers for the Scottish Ministers to empower SLAB to enter into contracts for criminal legal assistance. There is no need for contracting to be applied in a criminal context given the current provision of criminal legal assistance. Furthermore, there is no power for contracting in the civil area and the Society is of the view that contracting in this context is inappropriate and unnecessary.

The Committee recommends that SLAB monitor the impact of fixed fees on the availability of solicitors willing to undertake criminal legal aid throughout Scotland and report to the Committee on this matter in due course.

The Society has had no indication from the profession or from the Scottish Legal Aid Board that solicitors are unwilling to undertake criminal legal aid work. The Society has established an informal safety net. To date, there have been no calls on this procedure.

The Society notes the Legal Aid (Scotland) Act 1986 (Availability of Solicitors) Regulations 2001. These regulations provide that where the Scottish Legal Aid Board makes a solicitor available to provide assistance by way of representation for certain
proceedings in terms of section 31(8) of the Legal Aid (Scotland) Act 1986, an assisted person may only be represented by that solicitor.

The Committee recommends that the fee rates paid for criminal work by advocates and by solicitors for cases not covered by the fixed payment scheme should be increased – linked to the introduction of a quality assurance system.

There are issues about this matter although the Society is not currently in discussion with SLAB and the Scottish Executive about an increase for criminal work not covered by the fixed payment system. When it does begin such discussions, the Committee’s recommendations will be taken into account.

The Committee recommends that the Executive consider the regulations relating to the sanction of experts and the fee rates and consults on proposals for change within the context of a complete regulatory review. The Committee further recommends that SLAB give urgent consideration to streamlining and speeding the process of sanction for experts.

The Society welcomes this recommendation.

The Committee recommends that a framework for evaluation of quality in the provision of legally aided services be developed and implemented as a matter of priority.

The Society has already demonstrated its commitment to quality standards by –

a) the implementation of the Continuing Professional Development scheme;

b) its continued development of Inadequate Professional Services legislation;

c) the Code of Conduct; and

d) the creation of templates for summary and solemn criminal cases.

A system of quality assurance in civil legal aid will be part of the Society’s proposals for the reform of civil legal aid fees and procedures.
It is anticipated by the Society that the provision of Civil Legal Aid should be subject to the quality assurance regime. Any firm purporting to provide Civil Legal Aid will require to be certified for that purpose by SLAB.

The proposed scheme envisages an inspection which will be carried out by a team of inspectors recruited by the Society from amongst the ranks of experienced civil legal aid practitioners.

The inspectors will be subject to a training regime and an inspection template all of which will be agreed between the Society and SLAB. The purpose of the inspection will be to ensure:-

1) that the firm is applying appropriate administrative procedures; and
2) that on a random sample of the firm’s files a reasonable level of competent practice had been applied.

The purpose of the inspection will if required be primarily to advise and assist the firm in meeting the appropriate standard although if there is a comprehensive departure from appropriate standards then it will be open to the inspector to withhold certification.

The Committee recommends that SLAB, in carrying out its review, considers what scope there may be for applying the rules differently to ensure that the scheme does not unduly disadvantage particular groups.

The Society welcomes this recommendation.

Whilst the Committee is of the opinion that the same rules should apply whether or not the pursuer is in receipt of legal aid, it is also mindful of the costs to the public purse or implementing such a change. The Committee recommends that the Executive should assess the impact of applying the same rules to the successful unaided party as to the party in receipt of legal aid and report its findings to the Committee. The Executive should also assess the likely impact of reducing the test of hardship as in England and Wales.

The Society notes this recommendation.
The Committee will examine the guidance to be issued by SLAB on property recovered or preserved in due course and decide whether to make any recommendations on this issue at that time.

The Society notes this recommendation.

The Committee recommends that the Executive/SLAB consider the introduction of hardship provisions relating to civil legal aid in the case of property recovered or preserved. The Committee also recommends that the Executive should assess current exemptions from clawback and assess whether they are in line with inflation and whether they should be uprated in line with inflation.

The Society agrees with this recommendation.

The Committee recommends that the Executive instigate a complete review and revision of the legal aid regulations to simplify them and bring them up to date. In reviewing the regulations, the Executive should seek to ensure that they are coherent as they relate to the merits test for both civil and criminal legal aid.

The Society agrees with this recommendation.

Whilst the Committee is seriously concerned about the lack of a strategic overview, planning and delivery of the provision of legally aided services in Scotland, it is not yet convinced on the need to set up a legal services commission. The Committee recommends that the Executive bring forward proposals to give SLAB a greater strategic role than at present together with enhanced powers and a greater degree of flexibility of operation.

The Society is of the view that this recommendation requires to be carefully considered especially, but not exclusively, in the light of the development of the Community Legal Service.
The Committee recommends that the Executive should examine the need for a review of the civil justice system, and the resources required for such a review, and report back to the Committee with its findings.

The Society agrees with this recommendation. The Royal Commission on Legal Services in Scotland (the Hughes Commission) reporting in 1980 made two recommendations concerning reviews of the civil justice system. At recommendation 14.1 it recommended that a Committee should be appointed by the secretary of state “to review the structures, jurisdiction and procedures of the civil courts in Scotland”; and at recommendation 14.2 that a “separate review of the working methods of both the civil and the criminal courts should be carried out”. These reviews have not taken place.

Many other bodies have called for a civil justice review including the Scottish Consumer Council, the Standing Conference on Justice and the Law Society of Scotland.

The Committee recommends that the Executive should examine the cost implications of the recommendations of the Committee, in particular of those recommendations contained in paragraphs 25, 40, 52, 56, 67, 80, 81, 93, 103 and 108 and report back to the Committee with its findings as a matter of urgency.

The Society notes this recommendation.

The Committee recommends that the Executive should report to the Committee on the recommendations and outcomes of the working group on the Community Legal Service as a matter of urgency.

The Society notes this recommendation which was implemented with the publication of the report of the Community Legal Service Working Group entitled “Review of legal information and advice provision in Scotland”.

The Committee recommends that SLAB should report to the Committee on the outcomes of its current research as a matter of urgency.

The Society notes this recommendation.