JUSTICE 1 COMMITTEE

AGENDA

4th Meeting, 2006 (Session 2)

Wednesday 1 February 2006

The Committee will meet at 9.45 am in Committee Room 6.

1. **Forthcoming Criminal Proceedings etc. (Reform) (Scotland) Bill:** The Committee will consider the role and person specification for the post of adviser.

2. **Work programme:** The Committee will decide whether to consider its work programme in private at its next meeting.

3. **Family law:** The Committee will consider a note by the Clerk on the provision of family support services in Scotland.

4. **Petition PE770:** The Committee will consider a petition by Ms Patricia Orazio on family law issues.

5. **Subordinate Legislation:** The Committee will consider the following negative instruments—

   - the Criminal Legal Aid (Scotland) (Fees) Amendment (No.3) Regulations 2005, (SSI 2005/656);
   - the Bail Conditions (Methods of Monitoring Compliance and Specifications of Devices) (Scotland) Regulations 2006, (SSI 2006/7); and
   - the Restriction of Liberty Order (Scotland) Regulations 2006, (SSI 2006/8).

6. **Scottish Commissioner for Human Rights Bill (in private):** The Committee will consider a draft Stage 1 Report.

Callum Thomson
Clerk to the Committee
Papers for the meeting—

Agenda item 1
Note by the Clerk on the role and specification of an adviser  J1/S2/06/4/1

Agenda item 3
Note by the Clerk on family support services  J1/S2/06/4/2

Agenda item 4
Note by the Clerk on petition PE770  J1/S2/06/4/3

Agenda item 5
Note by the Clerk on SSI 2005/656  J1/S2/06/4/4
Note by the Clerk on SSI 2006/7  J1/S2/06/4/5
Note by the Clerk on SSI 2006/8  J1/S2/06/4/6

Agenda item 6
Draft report (PRIVATE PAPER)  J1/S2/06/4/7

Documents for information—
The following document is circulated for information:

- Letter from Deputy Minister for Finance, Public Service Reform and Parliamentary Business to the Convener, Consultation on the next census; and


Documents not circulated—
Copies of the following documents have been supplied to the clerk:

- National Autistic Society Scotland, Autism: a Guide for Criminal Justice Professionals; and


These documents are available for consultation in Room T3.60. Additional copies may also be obtainable on request from the Parliament’s Document Supply Centre.

Forthcoming meetings—
Wednesday 8 February, Committee Room 5;  
Wednesday 22 February, Committee Room 6;  
Wednesday 1 March, Committee Room 4;  
Wednesday 8 March, Committee Room 5;  
Wednesday 15 March, Committee Room 2.
JUSTICE 1 COMMITTEE

Committee Adviser for Criminal Proceedings etc. (Reform) (Scotland) Bill

Specification for Appointment

Background

1. It is expected that the Criminal Proceedings etc. (Reform) (Scotland) Bill will be introduced in late February 2006. It is expected that the Justice 1 Committee will be designated as the lead Committee on the Bill once it is introduced.

2. The Bill, when introduced, is likely to include a range of complex and technical provisions and it is suggested that the appointment of an adviser would assist the Committee in its scrutiny of the Bill.

3. The proposed adviser role and specification is attached at Annexe A.

Next steps

4. If the Committee agrees to appoint an adviser, approval from the Bureau is required before specific candidates can be considered.

5. It is envisaged that the Committee would then consider possible candidates for appointment at a future meeting.

Recommendation

6. The Committee is invited to consider the following issues:

- Does the Committee agree to appoint an adviser to assist in the scrutiny of the Criminal Proceedings etc. (Reform) (Scotland) Bill?
- Does the Committee agree the role and specification of the adviser?
JUSTICE 1 COMMITTEE

Committee Adviser for Criminal Proceedings etc. (Reform) (Scotland) Bill

Specification for Appointment

Background and remit

The Criminal Proceedings etc. (Reform) (Scotland) Bill is expected to be introduced in February 2006. It is also expected that the Justice 1 Committee will be designated as the lead Committee on the Bill.

The Bill will propose a set of changes to the bail and summary justice systems, giving effect to proposals contained in the Scottish Executive Summary Justice Reform – Next Steps report and the Bail and Remand Action Plan.

The Bill is expected to raise some complex procedural and technical issues that the Committee, in considering these aspects of the Bill, would likely benefit from expert advice. Furthermore, the bail provisions in the Bill are expected to be relatively high profile.

Adviser duties

The role of the adviser will be to assist the Committee in all aspects of the scrutiny process and, in particular, to provide expert advice on selection of witnesses, lines of inquiry, findings and to prepare draft and final reports in conjunction with the Committee as required.

The adviser will be expected to attend evidence-taking sessions where possible and, in particular, those meetings held to discuss draft reports. The adviser would report to the Committee through the Clerk and may be asked to submit papers to the Committee.

Specifically, the adviser’s role will be to assist the Committee in:

- Overview of relevant documentation and evidence: 3 days
- Preparation of lines of questioning: 2 days
- Attending meetings/ informal briefings/ visits: 5 days
- Assisting the Committee in drafting its Stage 1 report: 3 days
- Assisting with drafting and interpreting amendments: 2 days

Time Commitment

The adviser must be able to demonstrate that he or she has sufficient time to undertake the work over the period of the scrutiny of the Bill. It is anticipated that a maximum equivalent of 15 days will be required.

The following is a rough breakdown, which could be subject to change, of when it is expected that the adviser should be available:
Stage 1 – late February to June 2006  
Stage 2 – September to November 2006  
Stage 3 – mid-December 2006

It is expected that Stage 1 consideration of the Bill will represent the bulk of the adviser’s commitment, time-wise.

Specifically, the Committee meets on Wednesday mornings at the Scottish Parliament, Edinburgh and the adviser will be expected to be available at these times. Meeting times vary, but are generally scheduled from 10.00 am to 12.30 pm.

**Person specification**

The adviser would be expected to have a detailed understanding of the current summary justice and bail system. Practical experience of how the system works would also be desirable. The adviser would be expected to have proven analytical and interpretative skills and the ability to analyse evidence from a wide range of sources. The adviser should also have good communication skills, the ability to present information in an accessible style and, crucially, to work to short deadlines.

The adviser must be able to advise the Committee dispassionately on the basis of available evidence without seeking to persuade it of any particular outcome or approach that he or she may favour, and should not be involved in any capacity that would compromise his or her ability so to act.

The adviser’s duties may involve handling confidential and sensitive material. The adviser will be required to maintain absolute confidentiality about the matters under consideration or which come before him or her. The successful candidate will be required to declare any interests, relevant to the subject matter of the Bill, pecuniary or otherwise, in advance of the award of any contract.
JUSTICE 1 COMMITTEE
Family law: provision of family support services
Further work post-Family Law (Scotland) Bill

Background

1. At the request of Mary Mulligan MSP, the Committee considered the provision of family support services at its meeting on 14 December 2005.¹

2. During that discussion Committee members acknowledged that further work would be worthwhile in relation to this subject area, although no specific proposals were considered at the time. The extract from the Official Report of the meeting is attached at Annexe A.

Committee approach – appointment of a reporter

3. The Committee is likely to be busy with legislation-related commitments for the remainder of the session – there are forthcoming Bills in relation to summary justice and bail and judicial appointments. It is, therefore, suggested that a reporter-led inquiry would be the best approach in order to allow sufficient engagement with the issues.

4. Rule 12.6 of the Standing Orders allows for the Committee to appoint a member to report to it upon any competent matter within such time limit as the Committee may determine. The appointment of the reporter must be agreed formally by the Committee. If agreed by the Committee, the appointed reporter would carry out his / her work on behalf of the Committee and would be accountable to the Committee.

5. The Committee would be informed of the reporter's progress by means of a report-back, to be conducted at meetings of the Committee.

6. Mary Mulligan MSP has indicated that she would be happy to act as the Committee reporter for this inquiry. Given her particular interest in the subject and that she formally raised it with the Committee, is the Committee content to approve the appointment of Mary Mulligan as the Committee reporter?

Other issues

Provision of services by local authorities and national bodies

7. During the Committee’s consideration of the Bill at Stage 2,² the Deputy Minister for Justice referred to the provision of family support services in Scotland. The Minister recognised that there is no single standard of service across Scotland’s local authorities and that although the Executive provides

funding to the four main national bodies, there are gaps in local service provision. The Minister did, however, state that the Executive’s preference is for this mixed approach, with some services coming from the local authority and some coming from the voluntary sector, to continue.

8. The Minister also gave a commitment to the Committee that he would meet with COSLA to urge local authorities to support and develop family support services at the local level. Following this meeting, the Minister is expected to write to the Committee outlining what work both it and COSLA intend to undertake in this area.

**Picture of local service provision**

9. In considering service provision in Scotland, the Committee might find it helpful to refer to an overall picture of the services that are provided across each local authority. As the Minister said to the Committee, the Executive is unable to provide the Committee with a map of those services that are currently available. It is, therefore, suggested that such information could be sought from COSLA and the four national bodies that receive Executive funding.

10. During its scrutiny of the Family Law (Scotland) Bill, the Committee heard evidence from many of the national bodies involved in providing family support services – Family Mediation Scotland, Children 1st, Stepfamily Scotland and Scottish Women’s Aid. Although these organisations were able to provide the Committee with a general, centralised view of family support provision in Scotland they could not offer much in the way of specific experiences of providing these services at the point of delivery. It is, therefore, suggested that the inquiry should focus on engaging with service providers at a local level.

**Next steps**

11. Given the involvement of the Executive and COSLA, it will be important for the Committee to focus its work to ensure that it is able to add value to the work that is already going on. As such, it is suggested that the reporter considers the Minister’s correspondence (referred to paragraph 8) before proposing to the Committee – for its approval at a later meeting – a remit, inquiry plan and suggested timeframe for the inquiry.

12. At this early stage, it would, however, be useful for Members to feed in any suggestions for the inquiry which will then be taken into account by the reporter when drafting the remit and inquiry plan.

**Conclusion and recommendations**

13. The Committee is invited to consider the following issues:

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3 The four main national bodies that receive Executive funding for the provision of family support services are: Family Mediation Scotland; Couple Counselling Scotland; Scottish Marriage Care; and Stepfamily Scotland.

• Does the Committee wish to appoint a reporter to conduct an inquiry into the provision of family support services on behalf of the Committee?

• Does the Committee agree to appoint Mary Mulligan as the Committee reporter?

• Does the Committee agree to consider the reporter’s proposal for the inquiry, which will include a remit, inquiry plan and timeframe, at a future meeting?
The Convener: Item 3, on family law, has been put on the agenda at the request of Mary Mulligan, who unfortunately has not been able to stay for it. It concerns the provision of family support services, which the committee discussed in relation to the Family Law (Scotland) Bill.

Although the committee is busy, I agreed to put the item on the agenda because I felt that other members might wish to comment on the matter. If Mary Mulligan had been able to stay, she might well have asked the committee to consider carrying out a series of short pieces of work on certain issues that run alongside and beyond the bill, particularly with regard to family support services.

We will debate that issue in the chamber tomorrow; indeed, Stewart Stevenson has lodged an amendment on the matter and other members hope to contribute to that debate. Although we might vote differently on various amendments, we were unanimous at stage 1 that this aspect of the bill was important and might require more work. We should wait and hear what the Executive has to say tomorrow, but this is an opportunity for members to say now whether our business is finished or whether we should do a wee bit of work on the matter.

Mr McFee: We will clearly need to do some work on the matter, because I do not think that the whole question of the services that will be provided will be determined tomorrow. The speeches will be short, if not sweet, and the prospect of being able to form an overview, never mind a forward direction, is somewhat remote. I am sorry that Mary Mulligan is not here, because we had hoped to discuss the item last week and did not get the chance to do so. It could be argued that, irrespective of what happens tomorrow, this is unfinished business, although perhaps we should wait until after tomorrow’s stage 3 proceedings before we decide what work should be carried out.

Mike Pringle: I agree. Indeed, it might not be the only business left unfinished after tomorrow’s stage 3 proceedings. We might well have to consider other matters.

The Convener: I see that members are nodding at that.

Margaret Mitchell: When we started our consideration of the bill, we found that it placed a heavy emphasis on mediation and, as we progressed through stages 1 and 2, we began to feel that the counselling process and reconciliation
mechanisms had not been taken into account. That ties into the question of how best to support a wide range of different services to meet the needs of people who have an interest in the bill’s provisions. The issue will be debated to some extent under Stewart Stevenson’s amendment and I am glad to have the opportunity to discuss questions such as whether local authorities should take the role of the voluntary sector into account in this matter. Like other members, I doubt very much whether the issue will be resolved tomorrow, but we will be able to flag up aspects that need to be examined.

Stewart Stevenson: My amendment is amendment 44 and, by my estimate, it will be debated at 3.45 pm tomorrow, so be there or be square. Of course, it is not really my amendment; it was provided to me and I simply lodged it in my name. I hope that, whatever the outcome of the debate tomorrow, its relatively comprehensive focus on relationship counselling, family mediation and contact centres will provide a locus for discussing the various issues. I certainly know that there is wide interest in the matter out there. Representatives from my local mediation services will be sitting in the gallery, watching our deliberations, and I know that they will not be alone. I believe that, even if amendment 44 is agreed to, more discussion on these matters will be required.

Marlyn Glen: I agree with other members that there will be lots of unfinished business to attend to after the bill is passed. However, what kind of work will we be able to carry out effectively? I presume that, after stage 3 and after we see exactly what has emerged from the debate, we can once again put the matter on the agenda.

The Convener: Marlyn Glen has raised the most important point. We are simply putting down a marker that we know that more work will almost certainly have to be done. The question is whether we will be able to do any justice to that work in the time that we have available. Members will want to hear how the debate goes tomorrow, so I suggest that, on that basis, we should put the matter back on the agenda. However, when that happens, I will be looking for proposals for work that will add value to the subject area and members’ thoughts on whether, for example, we should have a short or long inquiry. If members feel that we need to examine areas other than family mediation and relationship services, they should be able to specify what those areas are. Do members agree to that suggestion?

Members indicated agreement.
Justice 1 Committee

Petition PE770, by Patricia Orazio

Note by the Clerk

Background

1. The Committee considered public petition PE770 at its meeting on 27 April 2005. The Committee agreed to refer to the petition in the course of its consideration of the Family Law (Scotland) Bill.

2. Petition PE770 calls for the Scottish Parliament to urge the Scottish Executive to investigate apparent widespread undue influence of children by any family members as a result of parental separation; to establish Family Law Centres with responsibility for drawing up action plans or contracts for parents, promoting shared parenting wherever possible; and to create a Children’s Law Centre to support children involved in family law cases. The petition is attached at Annexe A.

Detail of the petition

3. The petition makes three separate requests:

   - to have the Executive investigate circumstances where undue influence of children has been exerted by a family member resulting from parental separation;
   - to establish Family Law Centres; and
   - to create Children’s Law Centres.

4. The issue of a family member exerting undue influence on a child as a result of parental separation is the emphasis of the petition and indeed appears to be what prompted its submission.

5. The petition describes Family Law Centres as distinct places, staffed by lawyers and health professionals, which are designed to assist couples whose relationships have broken down by providing them with support. The main role of these centres is to prepare contracts, which might include any financial issues and, where children are involved, the sharing of parental responsibility and child access rights.

6. Within these Family Law Centres there should also be specific children’s support facilities – referred to in the petition as Children’s Law Centres. The petition suggests that Children’s Law Centres will provide a neutral environment in which a child can be reacquainted with an estranged parent.
The petition and the Family Law (Scotland) Act 2006

7. The petition refers to a number of issues that were relevant to the Committee’s consideration of the Family Law (Scotland) Bill. For this reason, the Committee welcomed the petition and agreed that it could usefully refer to it in the course of its scrutiny of the Bill. Furthermore, the Committee expected that the petition could assist its consideration of some of the provisions of the Bill and sent the petition to the Executive in order to further inform the evidence session with the Minister at Stage 1. Ms Orazio also submitted separate written evidence to the Committee in relation to the Bill, which was considered by the Committee.

8. The issues referred to in the petition helped to raise the Committee’s awareness of the effects, particularly where children are involved, of relationship breakdowns and on the provision of family support services.

9. During the course of the Committee’s evidence-taking it became clear that the court is the appropriate decision maker in situations where there is disagreement between two parents about the residency of their child and any subsequent contact rights. The Children (Scotland) Act 1995 provides for either parent (or another person) to initiate a court hearing in order to seek parental responsibilities and rights. In considering its decision, the court will have regard to the best interests of the child and will take account of all relevant circumstances, including allegations of undue or inappropriate influence on the child. It would, therefore, not be appropriate for the Committee or the Executive to pursue, or become involved in, individual cases such as that referred to in the petition.

10. The Committee was, however, able to pursue some other issues related to the petition during its scrutiny of the Bill, most notably the enforcement of contact orders and parenting agreements.

Contact compliance officers
11. The Committee considered various amendments to the Bill at Stage 2 in relation to the awarding by the court of contact orders and the subsequent enforcement of these orders.1 Partly as a result of the Committee’s consideration of these issues, during the Stage 3 debate on the Bill, the Minister announced that the Executive plans to initiate a pilot project to establish contact compliance officers to interact in situations where contact arrangements are not working as the court had envisaged.2 During the debate, the Minister also gave the Parliament the assurance that he planned to undertake research into post-separation contact arrangements. The Minister said that he expected to scope the extent and shape of the problem, to understand what works and does not work and to examine the durability of the arrangements, in order to start to design specific objectives.3

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1 Amendments lodged by Dr Sylvia Jackson MSP and Pauline McNeill MSP; considered by the Committee at Stage 2 (Day 3) on 9 November 2005.
Parenting Agreement for Scotland

12. During Stage 1 consideration of the Bill, the Committee heard evidence from Alan Finlayson OBE, the author of the Parenting Agreement for Scotland, which is a non-legislative measure, introduced along side the Family Law (Scotland) Bill. Parenting agreements seek to record written agreement between separating or separated parents with regard to the upbringing of their child. With an emphasis on mediation and the avoidance of court action, parenting agreements could also help to alleviate some of the issues expressed in the petition.

Recommendation

13. In agreeing to refer to the petition in the course of its scrutiny of the Family Law (Scotland) Bill, the Committee recognised that the petition raised some issues pertinent to its consideration of the Bill. The petition helped to raise awareness of some difficult family law issues that, ultimately, assisted the Committee in its scrutiny of the Bill.

14. It is generally accepted that it would not be appropriate for any body other than the courts to become involved in individual cases. That said, Ms Orazio’s petition did illustrate that there are difficulties in the practical application of family law to real life cases. When combined with a large number of other cases which were brought to the attention of the Committee, the Committee was able to successfully pursue other issues contained in the petition, giving rise to commitments by the Executive to undertake work on enforcing contact orders and improving the family support service network.

15. On this basis, it is recommended that the Committee close its consideration of the petition, but that it writes to Ms Orazio thanking her for submitting the petition and making specific reference to the policy developments outlined above which arose during the passage of the Family Law (Scotland) Act 2006.

16. The Committee is invited to consider its position on the matter.

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PE770 lodged on 21 September 2004

Petition by Patricia Orazio calling for the Scottish Parliament to urge the Scottish Executive to investigate apparent widespread undue influence of children by any family members as a result of parental separation; to establish Family Law Centres with responsibility for drawing up action plans or contracts for parents, promoting shared parenting wherever possible; and to create a Children’s Law Centre to support children involved in family law cases.
SSI Cover Note For Committee Meeting

SSI title and number: The Criminal Legal Aid (Scotland) (Fees) Amendment (No.3) Regulations 2005, (SSI 2005/656)

Type of Instrument: Negative

Meeting: 4th Meeting, 2006 (Session 2), Wednesday 1 February 2006

Date circulated to members: Friday 27 January 2006

Justice 1 Committee deadline to consider SSI: Monday 20 February 2006

Motion for annulment lodged: No

SSI drawn to Parliament's attention by Sub Leg Committee: Yes

If members have any queries or points of clarification on the instrument which they wish to have raised with the Scottish Executive in advance of the meeting, please could these be passed to the Clerk to the Committee as soon as possible, to allow sufficient time for a response to be received in advance of the Committee meeting.

At its 40th Meeting, 2005, the Committee took evidence from the Faculty of Advocates and the Scottish Executive in relation to The Criminal Legal Aid (Scotland) (Fees) Amendment (No.2) Regulations 2005, (SSI 2005/584).

The Subordinate Legislation Committee considered the instrument at its meeting on 10 January 2006, and draws the attention of the lead Committee to its concern, as detailed in its 1st Report, 2006 (Session 2):

The Criminal Legal Aid (Scotland) (Fees) Amendment (No.3) Regulations 2005, (SSI 2005/656)

The Committee reports to the Parliament as follows—

1. This instrument raised the same issues as SSI 2005/584 in relation to the retrospective effect provided for in regulation 2(1).

2. In its consideration of regulation 2(1), the Committee noted the Executive’s view that the powers in the parent Act do not prevent the approach taken in these Regulations, provided that the application of the retrospective provision was fair to those in receipt of the relevant fees.
3. The Committee is not persuaded by the Executive’s position and takes the view that, where a power is intended to be exercised retrospectively, specific provision is needed in the enabling legislation. In taking this view the Committee had regard to the express powers conferred in Ministers in the Superannuation Act 1972 and the Police (Scotland) Act 1967, both of which confer express powers to make subordinate legislation having effect from a date prior to the making of the instrument which are not contained in the Legal Aid (Scotland) Act 1986.

4. Accordingly, the Committee draws the Regulations to the attention of the lead Committee and Parliament as having retrospective effect not expressly conferred by the parent Act, and that there are therefore doubts as to whether the Regulations are *intra vires*. 
SSI Cover Note For Committee Meeting

SSI title and number: The Bail Conditions (Methods of Monitoring Compliance and Specifications of Devices) (Scotland) Regulations 2006, (SSI 2006/7)

Type of Instrument: Negative

Meeting: 4th Meeting, 2006 (Session 2), Wednesday 1 February 2006

Date circulated to members: Friday 27 January 2006

Justice 1 Committee deadline to consider SSI Monday 27 February 2006

Motion for annulment lodged No

SSI drawn to Parliament’s attention by Sub Leg Committee: No

If members have any queries or points of clarification on the instrument which they wish to have raised with the Scottish Executive in advance of the meeting, please could these be passed to the Clerk to the Committee as soon as possible, to allow sufficient time for a response to be received in advance of the Committee meeting.
SSI title and number: The Restriction of Liberty Order (Scotland) Regulations 2006, (SSI 2006/8)

Type of Instrument: Negative

Meeting: 4th Meeting, 2006 (Session 2), Wednesday 1 February 2006

Date circulated to members: Friday 27 January 2006

Justice 1 Committee deadline to consider SSI: Monday 27 February 2006

Motion for annulment lodged: No

SSI drawn to Parliament’s attention by Sub Leg Committee: No

If members have any queries or points of clarification on the instrument which they wish to have raised with the Scottish Executive in advance of the meeting, please could these be passed to the Clerk to the Committee as soon as possible, to allow sufficient time for a response to be received in advance of the Committee meeting.
CONSULTATION ON THE NEXT CENSUS

Censuses are normally carried out every 10 years and the next one is due in 2011. This letter briefs you on early preparations and our plans for formal contact with the Parliament and gives you the chance to comment or to discuss our preparations.

The Census is carried out under the Census Act 1920 by the Registrar General, subject to direction from Scottish Ministers. It is a devolved subject, and the subordinate legislation needed for each Census has to be approved by the Scottish Parliament.

The Census is a major exercise and preparations for 2011 have already started. One of the early steps is a Census Test, which will be carried out on 23 April in 3 parts of Scotland, designed to try new questions and a revised method of enumeration. The Annex to this letter gives more detail about these early preparations and the consultation, with Parliament and other interests, which we plan between now and 2011.

I am writing at this stage to the conveners of the Parliamentary Committees which may have an interest in the subject. The Equal Opportunities Committee has already asked for briefing on the subject and took evidence from the Registrar General on 3 October. The 2 Justice Committees are successors to the Justice and Home Affairs Committee which looked at the subordinate legislation for the 2001 Census. The Local Government and Transport Committee is considering a Bill concerning Registration Services, which has some parallels with the Census (both being the responsibility of the Registrar General). So I have written to all 4 conveners. I, or the Registrar General, would be happy to give evidence to you or to respond to written questions or comments if you wish to make them at this stage.
I look forward to hearing from you – because consultation with the communities affected, including the Parliament, is an important way of ensuring that we get the best possible Census in 2011.

Kind Regards

George

GEORGE LYON
2011 CENSUS: EARLY PREPARATIONS

Introduction

1. The Census is carried out under the Census Act 1920 which, as amended for devolution, provides for the Scottish Parliament to approve:

- An Order in Council made under Section 1(2) of the Act, specifying the date of the Census, the topics to be covered and the persons by whom (and about whom) Census returns are to be made;
- Regulations made under Section 3 of the Act, which are more detailed and specify the way in which the Census is conducted (including the Census form itself).

2. The last Census was in 2001. The Government’s proposals for the 2001 Census were set out, pre-devolution, in a UK-wide White Paper in March 1999. The necessary Order and Regulations were approved by the Scottish Parliament in March/April 2000 and were amended in June 2000 to take account of the Parliament’s decision to include questions on religion (which required amendment of the 1920 Act) and also more detailed questions on ethnicity.

Lessons of the 2001 Census

3. The 2001 Census is generally viewed as a success. However, the results of a follow-up survey, combined with statistical estimation techniques, suggest that about 4% of the population did not complete a Census form – and results had to be imputed to give a complete picture of the population. The number of people who do not complete a Census form has been increasing by about 2% per decade. With that in mind, and because of the importance of accuracy in the results of the Census (which is widely used by government, commerce, the voluntary sector and academia), an important aim in the preparation for the next Census is to maximise the number of people willing to complete the Census form and hence to engage as many interest groups as possible in preparations.

4. There are specific lessons from the 2001 Census which will also be taken into account. Scottish Parliament\(^1\) identified 2 points which could have been improved:

- The original Census proposals put before Parliament did not include the question on religion;
- The ethnicity question mixed colour (e.g. ‘black’) and geography (e.g.’Asian’).

5. More generally, the Registrar General considers that the consultation before the 2001 Census was satisfactory as regards users of the Census results (especially in central and local government and the NHS) but did not sufficiently consult wider communities. These, and

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\(^1\) [http://www.scottish.parliament.uk/business/committees/historic/equal/or-00/eo00-0302.htm#Col301](http://www.scottish.parliament.uk/business/committees/historic/equal/or-00/eo00-0302.htm#Col301) and [http://www.scottish.parliament.uk/business/committees/historic/equal/or-00/eo00-0102.htm#Col246](http://www.scottish.parliament.uk/business/committees/historic/equal/or-00/eo00-0102.htm#Col246)
other more technical lessons from 2001, are being taken into account in the planning for 2011.

Census Test 2006

6. Preparations are well advanced for a Census Test to be carried out on 23 April, in order to try out new questions and improve enumeration methods. The test is being held in 3 areas of about 12,000 households each - Lochaber and Breadalbane, Glasgow (Sighthill in the north of the city and Pollockshields in the south) and part of West Dunbartonshire. They have been chosen to be typical of areas where under-enumeration has been a problem in the past – because of second homes, high minority ethnic populations and social deprivation.

Consultation on 2011 Census

7. The Registrar General has embarked on a 5 year community liaison and consultation programme, which recognises that everyone should have the opportunity to have their say on the Census. The programme of consultation has been started much earlier, and in a more uniform way, than for the 2001 Census. Four main consultation routes have been followed:-

- A formal consultation document, directed mainly to traditional Census data users, issued in November 2004. The document covered the proposed design for the census-taking as well as the approach to the choice of questions. A 12 week consultation period was initiated by 4 meetings across Scotland.

- A continuous web-based consultation on possible Census questions. This gives communities of interest the best opportunity to influence question content.

- A programme to identify interest groups and encourage them to influence Census questions. Examples are the Disability Rights Commission, the Black and Ethnic Minority Infrastructure in Scotland, the Scots Language Resource Centre and Shelter, together with less formal contact with members of the community of gypsy travellers. This gives an opportunity to explore in depth areas of concern to each community.

- A programme of focus groups and cognitive research with groups of people who are traditionally undercounted and have high service needs. Examples are the Fife Arabic Society, Y-Sort-it young mothers’ club in West Dunbartonshire and Age Concern in Fife. Because of the relatively high percentage of under-enumeration among ethnic communities, particular attention is being given to contacting and working with ethnic community leaders.

8. The largest problem of under enumeration lies with 18-30 year olds – of all ethnicities (but particularly white) and more males than females. About 17% of males aged 20-24 were missed by the 2001 Census. People also think that the Census is not interested in young children and babies. These are harder problems to solve. Minority ethnic community members can be identified, will still belong to these communities in 2011, and often have some sort of representative structure. The same cannot be said for 18-30 year olds, who will not be in the same age group in 2011 – and there are no obvious community leaders for wayward young folk leading an exciting busy mobile lifestyle! Because today’s school pupils will be tomorrow’s Census form fillers, the Registrar General has worked with
ANNEX

Glasgow City Council to prepare material for a schools Census project in modern studies and geography for S3-S5 and ran a competitions for school pupils to pick new Census questions (two of which have been included in 2006 Census Test). Careful attention is being given to targeting young people in the West Dunbartonshire test area which, in 2001, had the highest rate of male unemployment and male imputation in Scotland.

Developing Questions

9. A set of questions to be used in the Census Test has been developed in the light of that process of consultation. Other factors were also taken into account. Some questions must be included to give the basic demographic picture or because of strong user need. It is important to allow comparison with the results of the 2001 Census. Co-operation with the other UK Census Departments (for England & Wales and Northern Ireland) is important to ensure that users’ needs for UK-wide information can be met.

10. The 2006 Census Test form is available on the General Register Office for Scotland website at http://www.gro-scotland.gov.uk/statistics/census/2006-census-test/index.html. Inclusion in the 2006 question set is no guarantee that a question will be included in 2011. Conversely, some essential questions, which have worked well in earlier Censuses, have been excluded from the 2006 form to save space, but will almost certainly be included in 2011. The eventual choice of questions will be difficult because the space on the form is at a premium, while simply lengthening the form would reduce response rates and increase processing costs.

Consultation with Parliament

11. Consultation with Parliament will be an important part of the wider community engagement in the preparations for the Census. That is why contact is being established at this early stage to allow Parliamentary Committees to influence preparations. It is intended to consult the Parliament again in early 2007, on the basis of the next formal consultative document issued by the Registrar General embodying the lessons of the Census Test. It is proposed that a formal ‘White Paper’ will be put to the Parliament in Autumn 2008 and that approval of the necessary subordinate legislation will be sought in early Spring 2010. But these plans are flexible at this stage.

General Register Office for Scotland
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