The Committee will meet at 9.30 am in Committee Room 5.

1. **Petitions:** The Committee will consider the following petitions—

   PE 914 by Peter Fallon, calling on the Scottish Parliament to urge the Scottish Executive to amend criminal justice legislation to require criminals to make financial reparations to the victim(s) of their crime.

   PE 935 by Ian Longworth, calling for the Scottish Parliament to urge the Scottish Executive to amend criminal procedures to ensure that when a Procurator Fiscal does not consider it in the public interest to pursue criminal proceedings, a full written explanation is provided to the alleged victim of the crime.

2. **Scottish Criminal Record Office inquiry (in private):** The Committee will consider a draft report on its inquiry into the Scottish Criminal Record Office.

   Callum Thomson
   Clerk to the Committee
Papers for the meeting—

Agenda item 1

Note by the Clerk on PE 914 J1/S2/06/38/1

Note by the Clerk on PE 935 J1/S2/06/38/2

Agenda item 2

Draft report (PRIVATE) J1/S2/06/38/3

Forthcoming meetings—

Tuesday 7 November, Committee Room 3;
Wednesday 8 November, Committee Room 4;
Tuesday 14 November, Committee Room 1 (joint meeting);
Tuesday 14 November, Committee Room 5;
Wednesday 15 November, Committee Room 2;
Wednesday 22 November, Committee Room 1; and
Wednesday 29 November, Committee Room 6.
Justice 1 Committee

Petition PE914, by Peter Fallon

Note by the Clerk

Background

1. Petition PE 914 by Peter Fallon, calls for the Scottish Parliament to urge the Scottish Executive to amend criminal justice legislation to require criminals to make financial reparations to the victim(s) of their crime.

2. The Public Petitions Committee (PPC) first considered the Petition at its meeting on 22 February 2006, and agreed to write to the Crown Office and Procurator Fiscal Service (COPFS) and the Scottish Executive. Upon receipt of COPFS’ and the Executive’s responses, the PPC agreed to refer the petition to Justice 1 Committee at its meeting on 27 September 2006, in the context of the Committee’s consideration of the Criminal Proceedings etc. (Reform) (Scotland) Bill.

Current position

3. The correspondence (attached as Annexes A and B) to the PPC from the Scottish Executive Justice Department and the Crown Agent spells out the current position.

Compensation Orders

4. The Crown Agent states that, under section 249 of the Criminal Procedure (Scotland Act) 1995—

“where a person is convicted of an offence, the court, instead of or in addition to any other disposal, subject to certain limited exceptions, can make an order requiring that person to pay compensation for any personal injury, loss or damage caused, whether directly or indirectly, by the acts which constituted the offence.”

5. The Crown Agent also states that while there is no limit on compensation in solemn cases, at summary level, compensation can be awarded up to a maximum of £5000. He further notes that the imposition of a compensation order is not mandatory and is at the discretion of the Court.

Criminal Injuries Compensation Scheme

6. The Criminal Injuries Compensation Scheme (CICS), operated by the Criminal Injuries Compensation Authority (CICA), provides another means by which victims of violent crime can receive compensation, even when the court has not made a compensation order. In addition, the scheme is not restricted

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1 The full text of section 249 of the 1995 Act is set out in the correspondence from the Scottish Executive Justice Department.
to those cases where there has been a prosecution resulting in a criminal conviction.

7. Under section 20 of the Management of Offenders (Scotland) Act 2005, CICA now has the power to recover sums from offenders that it has paid out to victims.

**Diversion scheme**

8. The Crown Agent states that, where an appropriate local diversion scheme exists, it is possible for procurators fiscal to divert an accused to a scheme involving mediation and reparation between the accused and the victim—

"this can provide a very effective form of diversion in respect of less serious offences where the background to an offence involves a conflict between these parties, or where it appears that some kind of amends could be made to the accused. This may, on occasion, involve the accused agreeing to pay some form of compensation to the victim."

**Criminal Proceedings etc. (Reform) (Scotland) Bill**

**Provisions in the Bill**

9. As Members will be aware, the Criminal Proceedings etc. (Reform) (Scotland) Bill, currently under consideration by the Committee at Stage 2, broadens the circumstances in which the court may make a compensation order, specifically to include any alarm or distress caused directly to the victim (section 38 of the Bill).

10. The Bill also provides for a new alternative to prosecution, compensation offers (section 39 of the Bill). Under this disposal, prosecutors will be able to offer an accused the opportunity of paying compensation to the victim of an offence, as an alternative to going through with the prosecution. The Crown Agent states that this will provide “effective and speedy resolution of the matter for the victim and the accused, and provides a means for the victim, where appropriate, to receive compensation without the need to attend court”.

**Justice 1 Committee’s Stage 1 Report**

11. In its Stage 1 Report, the Committee expressed concerns on these aspects of the Bill. The relevant paragraphs are reprinted below for Members’ information—

“189. The Committee notes that section 38 of the Bill extends the scope of court compensation orders so that these orders will now be able to be applied in circumstances where personal injury, loss or damage has been caused either directly or indirectly. Some specific concerns were raised with the Committee as to the suitability of some offences to be dealt with by way of a compensation offer.

190. In oral evidence, Gerard Brown from the Law Society stated that it is difficult to assess human distress when advising a client: how can procurators fiscal make that assessment unless they have exceptionally good training? Val Bremner, from the Procurator Fiscal Society, also referred to the need for its members to receive proper
training and guidance and for the need for them to be well-informed about the detail of every case.\textsuperscript{112}

191. The Solicitor General responded to these concerns and accepted that there will be a difficulty for fiscals in putting a price on personal injury or distress but assured the Committee that these offers will be subject to guidance. COPFS officials confirmed that detailed work on the operation of compensation offers is underway and that detailed guidance will be provided for prosecutors, particularly on their use for offences of violence.”

12. The Committee concluded—

“194. The Committee recognises that compensation offers may be a useful tool for the prosecutor in certain circumstances, but remains to be convinced that the application of these offers would be appropriate in cases involving personal injury or distress.”

13. It is likely that these sections of the Bill will be considered by the Committee at its meeting on Wednesday 15 November.

**Recommendation**

14. In light of the correspondence received from both the Scottish Executive Justice Department, and the Crown Agent, it would appear that there are currently various means by which financial reparation can be made to the victims of crime. Indeed, the proposals in the CPR Bill will, if passed, further expand the range of options by which victims of crime can receive compensation.

15. On this basis, it is recommended that the Committee notes the petition and keeps it open for the duration of the CPR Bill’s passage through Parliament and return to it following Stage 3.

16. The Committee is invited to consider its position on this matter.
Dear Dr Johnston

CONSIDERATION OF PETITION PE914

1. Thank you for your letter of 7 March 2006 about the consideration being given by the Public Petitions Committee to petition PE914 by Peter Fallon, which urges the Scottish Executive to amend current criminal justice legislation to require criminals to make financial reparation to the victim(s) of crime. You have asked for my comments on this proposal.

2. It may be helpful to outline how currently a person convicted of a crime can be required to pay compensation to a victim of crime.

Compensation Orders

3. In Scotland, the main facility by which an offender can currently be required to pay compensation to a victim of crime is by the court making a compensation order.

4. Under section 249 of the Criminal Procedure (Scotland) Act 1995, where a person is convicted of an offence, the court, instead of or in addition to any other disposal, subject to certain limited exceptions, can make an order requiring that person to pay compensation for any personal injury, loss or damage caused, whether directly or indirectly, by the acts which constituted the offence. There is no limit on the award of compensation in solemn proceedings, and at summary level, compensation can be awarded up to a maximum of £5000.

5. In practice, at the point of conviction, the prosecutor will advise the court of any known loss suffered by the victim, to enable it to consider making a compensation order where that would be appropriate in light of the offence(s) and the
loss or injury suffered. However the decision to make a compensation order is solely a matter for the court and is not entirely dependant on the prosecutor making known available and relevant information.

6. It is significant that in our current system, the court retains a discretion as to when a victim should be awarded compensation and the appropriate amount. It recognises that an award will not be appropriate in every case.

Criminal Injuries Compensation Scheme (CICS)

7. Significantly, even where the court does not consider it appropriate to make a compensation order, the Criminal Injuries Compensation Scheme provides another means by which victims of violent crime can receive compensation. A key difference with the CICS is that it is funded by the Home Office and the Scottish Executive and is more limited in its scope: it would not include, for example, victims of vandalism.

8. The CICS is not restricted to incidents in respect of which there has been a prosecution resulting in a criminal conviction.

9. As you will be aware, the CICS may be subject to change in the near future following the recent Home Office consultation “Rebuilding Lives – supporting victims of crime” which proposed radical simplification of the CICS and provision of better emotional and practical support to victims of crime.

Diversion Scheme

10. There is currently a range of options open to prosecutors which provide an alternative means by which to deal with reports of crime other than by bringing a prosecution. (Full details about the options open to prosecutors are available on our website at www.copfs.gov.uk.) Where a suitable local diversion scheme exists, it is possible for procurators fiscal to divert an accused, in appropriate cases, to the supervision of a social worker, psychiatrist, psychologist or mediator for the purposes of support, treatment or other action as an alternative to prosecution.

11. In particular, where the option of a diversion scheme involving mediation and reparation between the accused person and the victim is available, this can provide a very effective form of diversion in respect of less serious offences where the background to an offence involves a conflict between these parties, or where it appears that some kind of amends could be made by the accused. This may, on occasion, involve the accused agreeing to pay some form of compensation to the victim, e.g. payment of the cost of repairing a broken window.

Criminal Proceedings etc. (Reform) (Scotland) Bill

12. As you may be aware, the Criminal Proceedings etc. (Reform) (Scotland) Bill, recently introduced to the Scottish Parliament, expands the circumstances in which the court can consider making a compensation order, to include any alarm or distress caused directly to the victim.
13. In addition, the Bill provides for a new alternative option to prosecution, namely compensation offers. This means that prosecutors would be able to offer an accused person the opportunity to pay compensation to the victim of an offence, as an alternative to proceeding with a prosecution. This has the benefit of providing effective and speedy resolution of the matter for the victim and the accused, and provides a means for the victim, where appropriate, to receive compensation without the need to attend court as a witness in a prosecution.

14. A further intended benefit of the proposals in the Bill, in addition to increasing the scope for payment of compensation to victims of crime, is improved enforcement and collection of fines in general, with courts being able to impose enforcement orders and the introduction of fines enforcement officers. This, in turn, would positively impact on ensuring that victims receive payment of compensation ordered by the court from the offender.

Conclusion

15. As I have highlighted, there are various means by which financial reparation can be made to victims of crime, in appropriate cases, and this principle is already an important feature of our criminal justice system. The proposed changes in the Criminal Proceedings etc. (Reform) (Scotland) Bill will expand the range of options by which victims of crime can receive compensation.

16. I hope these comments are of assistance.

Yours sincerely

Norman McFadyen
Crown Agent
Dear Dr Johnston

CONSIDERATION OF PETITION PE914

Thank you for your letter of 7 March 2006 asking for comments on Petition PE914 which calls upon the Scottish Parliament to urge the Scottish Executive to amend criminal justice legislation to require criminals to make financial reparation to the victim(s) of their crime.

In his submission the petitioner suggests that ‘the criminal is under no obligation to make reparation to the victim of the crime’. From the example used in his petition the petitioner would appear to be concerned principally with compensation for the loss or damage of property, namely a car, that has resulted from a criminal act (which, in the case referred to by the petitioner, was the stealing of a car). Although I cannot comment on the details of individual cases, it is important to note that Scottish courts do have the discretionary power under section 249 of the Criminal Procedure (Scotland) Act 1995 to impose a compensation order on a convicted person. The relevant part of section of the Act is reproduced below:

249.—(1) Subject to subsections (2) and (4) below, where a person is convicted of an offence the court, instead of or in addition to dealing with him in any other way, may make an order (in this Part of this Act referred to as "a compensation order") requiring him to pay compensation for any personal injury, loss or damage caused, whether directly or indirectly, by the acts which constituted the offence.

(2) It shall not be competent for a court to make a compensation order—

(a) Where, under section 246(2) of this Act, it makes an order discharging him absolutely;
(b) where, under section 228 of this Act, it makes a probation order; or
(c) at the same time as, under section 202 of this Act, it defers sentence.

(3) Where, in the case of an offence involving dishonest appropriation, or the unlawful taking and using of property or a contravention of section 178(1) of the Road Traffic Act 1988 (taking motor vehicle without authority etc.) the property is recovered, but has been damaged while out of the owner's possession, that damage, however and by whomsoever it was in fact caused, shall be treated for the purposes of subsection (1) above as having been caused by the acts which constituted the offence.

(4) No compensation order shall be made in respect of—

(a) loss suffered in consequence of the death of any person; or
(b) injury, loss or damage due to an accident arising out of the presence of a motor vehicle on a road, except such damage as is treated, by virtue of subsection (3) above, as having been caused by the convicted person's acts

Of course, the imposition of such an order is at the discretion of the court, but the power exists, if the court wishes to exercise it, to require the convicted person to compensate the owner of property lost or damaged as a consequence of the convicted person stealing a vehicle. The court also has enforcement powers to ensure that the compensation is paid.

Ministers have decided to broaden the circumstances in which a court may impose a compensation order to include where the victim of a criminal act has been caused alarm or distress. These provisions were included in section 38 of the Criminal Proceedings etc. (Reform) Bill which was introduced to Parliament on 27 February.

Also included in section 39 of the Bill are provisions for a new alternative to prosecution to be known as the compensation offer. This can be offered by procurators fiscal as an alternative to prosecuting a case where the prosecutor considers it appropriate to do so (much in the same way as a “fiscal fine” can currently be offered). The offers will have a maximum value of £5,000 and the prosecutor will be able to make such an offer where there has been injury, loss, damage, alarm or distress caused to the victim. If accepted by the accused it will be enforceable as if it had been imposed by the court. If rejected the prosecutor would proceed with the case as usual, involving a hearing before the court and the possibility of a court-imposed compensation order as the disposal in the case.

Both the broadening of the criteria for imposing a compensation order and the introduction of the compensation offer were recommendations made in the report of the Summary Justice Review Committee, chaired by Sheriff Principal McInnes, and accepted by Ministers in 2004.

As the petitioner points out, victims already have a right to compensation for physical or mental injuries caused by a crime of violence through the Criminal Injuries Compensation Scheme (CICS) operated by the Criminal Injuries Compensation
Authority (CICA). It should also be noted that the Scottish Executive has introduced measures, through section 20 of the Management of Offenders (Scotland) Act 2005, extending to Scotland the power of the CICA to recover from offenders sums paid out by it to victims of crime under the CICS. These provisions will not affect the eligibility of victims of violent crime to claim compensation from CICA.

The petitioner also highlights that a victim can raise an action for damages against offenders in the civil courts. The current law of delict allows victims of crime to take civil proceedings against the offender for compensation and they may be eligible for legal aid to help them to do so. The victim (as pursuer in the civil action) has to establish liability by showing they were owed a duty of care by the offender, the offender was in breach of that duty and the damage to the victim was reasonably foreseeable. If that can be shown, the court can award damages to the victim.

I hope the information provided here is of assistance to the Committee in its consideration of this petition. Ministers are committed to ensuring that the rights, interests and needs of victims are promoted as integral to the justice reform programme, and that the courts and prosecutors have the appropriate powers to enable them to compel offenders to recompense loss or damage caused by their criminal actions in appropriate circumstances.

Yours sincerely,

Craig Smith
Private Secretary
Justice 1 Committee

Petition PE935, by Ian Longworth

Note by the Clerk

Background

1. Petition PE 935, by Ian Longworth, calls for the Scottish Parliament to urge the Scottish Executive to amend criminal procedures to ensure that when a Procurator Fiscal does not consider it in the public interest to pursue criminal proceedings, a full written explanation is provided to the alleged victim of the crime.

2. The Public Petitions Committee (PPC) first considered the petition at its meeting on 8 March 2006 and agreed to write to the Crown Office and Procurator Fiscal Service (COPFS), Victim Support Scotland and the Victim Information and Advisory Service. The PPC received two substantive responses, and at its meeting on 27 September, it agreed to refer the petition to Justice 1 Committee, in light of the Committee’s consideration of the Criminal Proceedings etc. (Reform) (Scotland) Bill. The responses are attached to this paper as Annexe A.

Current position

COPFS Prosecution Code

3. The COPFS Prosecution Code¹ (published in 2001) states that the prosecutor cannot publicly disclose the detailed reasons for a decision in a particular case. The policy states that decisions may have been based on confidential information and any information disclosed may contain allegations against an accused person, who would not have the opportunity to answer or defend themselves as they would in court.

Lord Advocate’s statement

4. On 10 February 2005, the Lord Advocate announced a change to this policy during a Parliamentary debate on COPFS. He stated that—

“Wherever possible, victims and next of kin who request it will be provided with an explanation by the Crown for any decision to mark a case "no proceedings" or, in cases in which proceedings have been commenced, a decision to discontinue proceedings or to accept a plea to reduce a charge.

Disclosure of reasons might not be possible in all cases. Decisions might rest on information that is given in confidence or there might be a particular public interest to protect. I should also stress that reasons will be given privately to the victims or, where appropriate, the next of kin. It

is not for the Crown to make a public announcement on the guilt or innocence of an accused person when the allegations have not been tested in the public forum of a court.”

Correspondence from the Crown Agent
5. The Crown Agent confirms that an important element of this change in policy is that most victims or next of kin must ask for an explanation from the Crown. He states that COPFS has adopted this “reactive” approach, since victims and next of kin may not want to receive information, and it may be “inappropriate to make unsolicited contact which may cause unnecessary distress”.

6. However, in relation to all cases where a death is involved, the Crown Agent states that COPFS has adopted a “proactive” approach, and will therefore aim to provide next of kin with an explanation to mark a case “no proceedings”. This approach is also recommended in relation to domestic abuse, racially motivated offences, sexual offences, child victim cases and other cases involving vulnerable victims.

Correspondence from Victim Support Scotland
7. In their correspondence to the PPC and in further correspondence to the Justice 1 Committee (attached as Annexe B) Victim Support Scotland (VSS) confirmed that they support COPFS’ reactive/proactive approach described above. Neil Paterson stated that—

“Victim Support recognises that given the volume of cases handled by COPFS each year, it would not be practicable to expect the Service to provide an automatic explanation to victims in every case where a decision was taken not to proceed. The facility does exist for a victim to request such an explanation and this seems appropriate.”

8. While in support of the policy outlined above, VSS felt that it was important to note that victims should be aware of their right to request such information, and that any information conveyed as a result of such a request should be of assistance to them.

Recommendation
9. These views do not support the proposal outlined by the petition that the Procurator Fiscal must provide in all cases, whether requested or not, an explanation to the victim of the reasons why the case is not being proceeded with.

10. Furthermore, in light of the Lord Advocate’s statement to Parliament regarding the change in prosecution policy, an explanation, where one is requested, is now to be provided to the victim of a crime in cases marked “no proceedings”.

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2 Official Report, Meeting of the Parliament, 10 February 2005, col.14440
11. The correspondence received from Victim Support Scotland is supportive of the Lord Advocate’s position and also highlights the view that not all victims may wish to receive an explanation of the PF’s decision not to proceed with the case.

12. On this basis, it is recommended that the Committee closes the petition and that no further action is taken.

13. The Committee is invited to consider its position on this matter.
Dear Dr Johnston

CONSIDERATION OF PETITION PE935 FROM IAN LONGWORTH – EXPLANATION OF REASONS NOT TO PROSECUTE

Thank you for your letter of 16 March regarding the petition by Ian Longworth (PE935) urging the Scottish Executive to amend criminal procedure to require that a full written explanation is provided to the victim when a Procurator Fiscal does not consider it in the public interest to pursue criminal proceedings.

It may be helpful to outline those matters which the Procurator Fiscal can take into account when considering whether to prosecute. In this context I would refer the Committee to the Crown Office and Procurator Fiscal Service (COPFS) Prosecution Code, as published on our website:


This document confirms that a key objective of COPFS is to ensure, in the public interest, that all crimes made known to the Procurator Fiscal are investigated and that effective and consistent use is made of the range of prosecution options and alternatives to prosecution. The prosecutor must take account of legal and public interest considerations.

Firstly, the Procurator Fiscal must decide whether the conduct complained of constitutes a crime known to the law of Scotland and whether there is any legal impediment to prosecution.

The Procurator Fiscal then requires to consider whether there is sufficient, admissible and reliable evidence to support a prosecution. The essential facts of the case must be corroborated – that is they must be supported by evidence from at least two separate sources.
The next issue to determine is whether prosecution would be in the public interest. Assessment of the public interest often includes consideration of competing interests, including the interests of the victim, the accused and the wider community. An assessment of the public interest involves a careful consideration of all the factors relevant to a particular case. Such factors could include the nature and gravity of the offence, the impact of the offence on the victim and other witnesses, the age, background and personal circumstances of the accused, the age and personal circumstances of the victim and other witnesses, the attitude of the victim, the motive for the crime, time elapsed since the offence was committed, mitigating circumstances, the effect of prosecution on the accused, the risk of further offending, the availability of a more appropriate civil remedy and public concern.

At the time of publication, our Prosecution Code stated that the Prosecutor would not disclose publicly the detailed reasons for a decision in a particular case. There were a number of reasons for that policy; decisions are based upon the consideration of confidential information and also because any information disclosed could contain allegations against an accused person, where they do not have the opportunity to answer or defend themselves as they would in court.

However, on 10 February 2005 the Lord Advocate announced a change to that policy in a Parliamentary debate on COPFS (see link below). He confirmed that, wherever possible, victims and next of kin who request it will be provided with an explanation for any decision to mark a case "no proceedings" or, in cases in which proceedings have been commenced, a decision to discontinue proceedings or to accept a plea to reduce a charge.

http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor0210-02.htm - Col14440

It was recognised in the Lord Advocate’s announcement that disclosure of reasons might not be possible in all cases. Decisions might rest on information that is given in confidence or there might be a particular public interest to protect. All such explanations are given privately to the victims or, where appropriate, the next of kin, as it is not considered appropriate for the Crown to make public statements on the guilt or innocence of an accused person when they do not have the ability to test any allegations against them in court of law.

This reactive approach is favoured because there will be instances where victims do not wish to receive information and where it would be inappropriate to make unsolicited contact which may cause unnecessary distress.

In addition to this reactive approach, we have adopted a proactive approach in relation to all cases involving deaths. A proactive approach is also recommended as good practice in relation to domestic abuse, racially motivated offences, sexual offences, child victim cases and other cases involving particularly vulnerable victims.

I think it might also be helpful to refer the committee to the COPFS Statement on the Treatment of Victims and Witnesses, which is again published on our website:

This statement outlines the commitment of this department to victims and witnesses of crime and the standards of service that they can expect to receive. In particular, it confirms the important role played by our Victim Information and Advice (VIA) officers in keeping victims and witnesses advised about the progress of cases in which they are involved.

I hope this is of assistance.

Yours sincerely

Norman McFadyen
Crown Agent
Dear Dr Johnston,

Consideration of Petition PE 935

Firstly I apologise for the delay in responding to previous correspondence however I am now pleased to respond with the views of Victim Support Scotland in relation to the above Petition.

Victim Support Scotland provides practical and emotional support to 100,000 victims of crime annually. In addition Victim Support Scotland’s Witness Service provides support to over 70,000 witnesses within all Sheriff and High Courts in Scotland.

Victim Support Scotland recognises the significant improvements that have been implemented in recent years in relation to support inclusion for victims e.g. Victim Information and Advice, Victim Notification and the Vulnerable Witness Act.

One of Victim Support Scotland’s current strategic objectives is to encourage individuals to participate in the criminal justice system. The success of this objective will centre on individuals confidence in the system and the support that is provided to them while involved in this area. One factor which is
critical to enhancing understanding of the system is the provision of information at all stages of the process.

Victim Support Scotland supported the recent Victim Impact Statement pilot project in Edinburgh and Ayrshire which allowed for victims of particular crimes to provide a statement for the information of the court following conviction and prior to sentencing. The thrust of the pilot was to allow for the victims voice to be heard by providing information on the impact of the crime on the victim.

A more recent initiative in Glasgow is looking at the provision of Judges Sentencing Statements to victims and relatives explaining why a certain disposal was made.

The above initiatives support the belief that the provision of information to Victims greatly assists both understanding but perhaps more importantly a confidence and willingness to participate in the Criminal Justice System.

In relation to the specific issue of a procurator Fiscal not proceeding in the public interest the same rationale would apply. Failing to provide information would leave individuals confused and with a lack of understanding and potentially discourage any further participating in the criminal justice process.

The Crown Office and Procurator Fiscal Prosecution Code clearly sets out the factors that can be considered with regard to public interest considerations. Interestingly the guidance indicates that in assessing the public interest the prosecutor will take account of general public concerns as well as local community interest. Arrangements can be made to enable local community representatives to discuss general matters of concern with the Procurator Fiscal although the final decision is the responsibility of the prosecutor.

It would appear therefore that the provision already exists for some form of dialogue for community groups. The petition potentially affords the opportunity to extend this existing provision allowing individuals to seek information as appropriate.

Statistical information available from the Crown and Procurator Fiscal Service indicates that during the years between 2002-2006 on average 15% of cases reported (circa 50,000) are not proceeded with. Cases not processed with in the public interest are not specifically mentioned and as a result the issues associated with volume/resources requires to provide information to victims is not subject of comment.

It would appear that if the general headings for not proceeding in the public interest are currently in the public domain via Crown Office publication it
would appear reasonable that this information be provided to victims so requiring this level of detail.

Victim Support Scotland recognises that this level of information is not necessarily universally required, however would support the disclosure of this information to victims were requested.

I trust this information will be of assistance to you.

Yours sincerely,

Jim Andrews

HEAD OF VICTIM SERVICES
Supplementary correspondence from Victim Support Scotland

Please find below some further points for clarification—

1. Victim Support recognises that given the volume of cases handled by COPFS each year, it would not be practicable to expect the Service to provide an automatic explanation to victims in every case where a decision was taken not to proceed. The facility does exist for a victim to request such an explanation and this seems appropriate.

2. In light of the above, it is important that—

   • victims are aware of their right to request such an explanation; and
   • that victims and next of kin feel that the information conveyed as a result of such a request is of assistance to them.

Neil Paterson
Director of Operations
Victim Support Scotland
October 2006