Finance Committee

Public Services Reform (Scotland) Bill

Submission from HM Chief Inspector of Prosecution

In setting up the Inspectorate of Prosecution in 2003 I collated information from various inspectorate bodies both North and South of the border. The question of independence was a strong principle common to all inspection bodies. The principles in Crerar particularly its emphasis on self-assessment, targeted risk-based inspection and user focus were already well established themes.

My main concern with the proposed legislation centres on Part 2 with the proposal that Ministers can by order "restructure" the discharge of inspection functions including abolishing functions and indeed inspection bodies (albeit subject to some kind of Parliamentary hurdle). This seems to me to confer too much power on Ministers to alter powers/duties conferred by the Parliament. My own statutory foundation (itself a bulwark for independence) confers the function of inspecting the Crown Office and Procurator Fiscal Service with no further specification and I would not welcome any interference with that general function as I believe it acts as an important mechanism to address issues which may be of public concern and provides a mechanism for accountability.

I am also concerned about Part 6. User focus is at the centre of our inspection work involving extensive contact with system users by way of questionnaires, interviews etc. I have no issue therefore with an emphasis on this. However, I feel that again there is a danger in allowing Ministerial direction on how inspection work is undertaken and might curtail activity. It also clashes with my primary legislation which provides that the Inspector in exercising his functions is to act independently of any other person, again an important part of independence. User focus is also in my opinion too widely defined as it stands.

In my experience over the past 6 years (in the criminal justice arena) inspection bodies are more than willing to pursue joint work with each other and adhere to the 10 accepted principles of inspection which include customer focus and joint working. I note that my own inspectorate is absent from those bodies listed in clause 95 despite the prosecution's role in the possible prosecution of children and children as victims/witnesses. I have now conducted (voluntarily) 3 joint inspection with Her Majesty's inspectorate of Constabulary.

Joseph T O'Donnell
HM Chief Inspector of Prosecution