

Christine Grahame MSP
Convener, Justice Committee
The Scottish Parliament
EMAIL ONLY



6 November 2015

Dear Christine,

Further to my appearance before the Committee on 3 November with regard to the Community Justice (Scotland) Bill, I would like to provide some clarification on two aspects of the evidence that I provided about potential escalation action that might be taken in order to drive improvement in community justice.

For clarity: under section 24 of the Bill, Community Justice Scotland is empowered to make recommendations to Scottish Ministers as to action that it considers is necessary to enable the achievement of a nationally determined outcome, in relation to the Performance Framework, or that Community Justice Scotland considers would help to improve performance in achieving outcomes, or otherwise in relation to community justice.

The Bill does not specify what any such recommendations should be. However, Scottish Government has agreed with COSLA, in 2013, that any such recommendations could, where required, include a recommendation that a multi-agency inspection should be carried out or that a rescue task force should be set up among the options. Therefore, the position is that if Community Justice Scotland were to have any concerns about the performance of community justice partners, it could recommend action that it considered necessary and appropriate. However, it would be for Ministers, rather than Community Justice Scotland, as I believe I may have inadvertently implied, to make the final decision on whether to take the recommended action forward, i.e. potentially on whether a multi-agency inspection or rescue task force was appropriate. This position has already been articulated in the Scottish Government's publication "Future model for community justice in Scotland: Frequently Asked Questions" in December 2014, and will feature in guidance in due course.

I believe I may have stated, in subsequent discussion that any such recommendation options, shown in the Annex to that submission, would be outlined by Scottish Ministers through secondary legislation.

However, I want to take this opportunity to state that, rather than through enabling powers in the Bill, we would, in fact, be able to rely on Scottish ministers' existing powers to specify

the recommendation options described above, and therefore we do not require to add them through this Bill. The relevant powers include those conferred by the Social Work (Scotland) Act 1968 and the Local Government in Scotland Act 2003 etc.

I trust that this clarification of the respective roles of Community Justice Scotland and Scottish Ministers in relation to driving improvement will be of assistance to the Committee, and will reassure members that there is appropriate safeguards to ensure the use of multi-agency inspections or rescue task force approaches will only be used when that is an appropriate and proportionate response.

I was particularly keen, upon reflecting on the evidence I provided, to ensure that I corrected any potential misunderstanding of the process by which the escalation action is derived.

Kindest regards,

A handwritten signature in black ink, appearing to read 'Paul Wheelhouse', written in a cursive style.

Paul Wheelhouse MSP