

Clerk to the Delegated Powers and Law Reform Committee
Room T1.01
Scottish Parliament
DPLR.Committee@scottish.parliament.uk

15 September 2015

Dear Deborah

Community Justice (Scotland) Bill at Stage 1

The Scottish Government thanks the Committee for its letter of 3 September seeking an explanation of *"why, specifically, is the power to make changes to the main functions of CJS as listed in section 3(1) appropriate, and how might the Scottish Government exercise this power to modify that subsection?"*

It may be helpful if I explain that the Bill sets out a framework for the co-ordination and management of community justice services in Scotland and the role played by Community Justice Scotland in that. While the Scottish Government has set out those functions in the Bill carefully, it is recognised that once Community Justice Scotland is operational, it may be necessary to make changes to its functions in light of operational experience.

The power is therefore appropriate when viewed in the context of those functions as set out in the Bill. The Government recognises that it cannot foresee precisely how the new arrangements under the Bill will work in the longer term and the power is necessary to allow adjustments to the main functions of Community Justice Scotland so that it remains relevant and effective in its role. For example it may become evident that the particular emphasis on the needs of offenders, within the function of promoting and supporting improvement in the quality and range of provision of community justice, could change over time, perhaps with regard to particular groups of offenders. The power therefore allows flexibility to change the detail of the function, but the function itself will remain.

The Committee also sought an explanation of *"which functions of CJS described in section 3(1) and elsewhere in the Bill are functions "in relation to community justice" which may be changed by regulations? Would it be clearer if the provision set out which functions described in the Bill could be changed, or could not be?"*

Section 3(4)(c) permits a change to any function of Community Justice Scotland, the limitation "in relation to community justice" affects instead what a function may be changed to. Accordingly the power cannot be used to change a function of Community Justice

Scotland to such an extent that it no longer relates to community justice. By way of example it would not be possible for the function of informing Ministers in section 3(1)(b) to be changed to include informing Ministers on matters that did not relate to community justice, e.g. general housing provision.

Yours sincerely

Elaine Hamilton

Elaine Hamilton
Community Justice Bill Team Leader