

# Scottish Courts and Tribunals Service



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Dear Ms McNeill

## **SCOTTISH PARLIAMENTARY QUESTION S5W-22755**

The Cabinet Secretary in his response to the above PQ indicated that it related to operational matters within the responsibility of the Scottish Courts and Tribunals Service corporate body. I am now writing in response to the matter raised.

**S5W-22755** asks: To ask the Scottish Government what discussions it has had with the Scottish Courts and Tribunals Service regarding reports that the 140-day target date from full committal for criminal trials to begin is being breached.

The statutory provisions regulating time limits are contained in the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act").

If an accused person is remanded in custody, the prosecution must serve an indictment on the accused or the accused's legal representative within 80 days of full committal. The indictment provides the accused with notice of a preliminary hearing, which will determine the state of preparation of the defence and the prosecution and ensure outstanding issues are resolved before trial. The preliminary hearing must be held within 110 days of full committal and not less than 29 clear days after service of the indictment. The trial is fixed by the court at the preliminary hearing and must commence within 140 days of full committal.

In accordance with Section 65 of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act"), the prosecution can make an application to the court to extend time limits. The prosecutor must provide a full explanation for the reason why an extension is necessary and why it is in the interests of justice that the application should be granted. The defence may join the prosecutor in making the application. The grant or refusal of any application for extension may be appealed.

In responding to your earlier parliamentary questions, S5W-18670 and S5W-18671, I provided data on the number of trials commencing and the extension to time limits. An updated version of that data to end 2018 is provided below:

|   | 2009<br>(Apr-<br>Dec) | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|---|-----------------------|------|------|------|------|------|------|------|------|------|
| Total Number of Trials Started  | 323                   | 424  | 456  | 545  | 579  | 605  | 594  | 585  | 666  | 712  |
| of which the 140 day time limit was extended  | 124                   | 157  | 213  | 222  | 168  | 202  | 182  | 191  | 223  | 220  |
| of which the 12 month time limit was extended   | 162                   | 209  | 194  | 284  | 367  | 378  | 407  | 378  | 428  | 489  |
| of which no time limit was extended   | 37                    | 58   | 49   | 39   | 44   | 25   | 5    | 16   | 15   | 3    |
| Average period (weeks) between 1 <sup>ST</sup> Preliminary Hearing and Trial commencement | N/A                   | N/A  | 18   | 23   | 15   | 14   | 22   | 29   | 22   | 16   |

This illustrates the significant increase in high court cases, reflecting of the increase in the prosecution of sexual offences and historic abuse, as a result of improved investigation and the confidence of victims to report these crimes.

The Scottish Courts and Tribunal Service (SCTS) have worked with Scottish Government to secure additional funding to provide additional court rooms, judiciary and staff to deal with the increased caseload. The results of this are most noticeable in the average period between the preliminary hearing and trial commencement.

However, while providing additional resources may be effective in the short term, SCTS has been in discussion with Scottish Government and other justice organisations to secure long term improvement in the management of high court cases across all organisations.

- Lady Dorrian, the Lord Justice Clerk, introduced a High Court Practice Note on the “The Management of Lengthy or Complex Criminal Cases”. This aims to ensure that trials involving complex crimes, or multiple accused, are kept within reasonable time limits and that judges have an early detailed understanding of the complexities by; prosecutors providing an early outline of key facts and evidence, defence agents providing an early statement, better use of uncontroversial evidence being agreed in advance of trial and better use of focused evidence during trial.
- A judicially led review group will take a fresh look at how sexual offences cases are conducted by courts, seeking to find a better way to deal with these cases to improve the experiences of all the participants in the interest of justice. The group will consider what distinguishes sexual assault cases from other criminal cases and how court process and the experiences of complainers and witnesses can be improved without compromising the rights of an accused.
- The Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill following on from the SCTS review of Evidence and Procedure which highlighted the need to transform the way in which we capture the evidence of children and vulnerable witnesses. At the heart of the Review’s recommendations was the greater use of pre-recorded evidence to avoid re-traumatising a vulnerable witness and ensure they could give the most accurate, reliable and comprehensive evidence and be tested on it fairly. Once it receives royal assent, the new Act will enshrine the principle for child witnesses in very serious cases with the power to extend it to

adult vulnerable witnesses in solemn proceedings including sexual offences, stalking, domestic abuse and human trafficking.

A copy of this letter will be placed in the Scottish Parliament Information Centre and published on the Scottish Courts and Tribunals Service website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Eric McQueen', with a long horizontal flourish extending to the right.

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