

# Criminal Justice Committee

**7th Meeting, 2023 (Session 6), Wednesday 1  
March 2023**

## Scottish Mental Health Law Review

### Note by the clerk

#### Background

1. The Criminal Justice Committee is to hold an evidence session on the criminal justice recommendations within the final report of the [Scottish Mental Health Law Review](#). The Committee will hear from Professor Colin McKay, Centre for Mental Health and Capacity Law at Edinburgh Napier University, and a Member of the Review Team.
2. The Review Team were tasked with assisting the Chair, John Scott KC, with improving the rights and protections of people who may be subject to mental health, incapacity or adult protection legislation, because of a mental disorder.
3. Following just over three years of work, the Review's [final report](#) was published in September 2022. It includes short, medium and long-term recommendations, covering several areas.
4. In response to the Report, the Scottish Government has indicated that cross-government work is underway to assess the implications, and that a response to the Review (including priority actions) will be set out in due course.

#### The Committee's previous work

5. On 18 May 2022, the Committee held a roundtable evidence session on policing and mental health. Following that evidence session, the Committee wrote to the Cabinet Secretary for Justice and Veterans to highlight the impact on police officers of Section 297 of the Mental Health (Care and Treatment) (Scotland) Act (2003), which only allows officers to take a person to a place of safety from a public place when they appear to be mentally disordered and in immediate need of care or treatment. This is to enable a medical practitioner to examine the person and to make arrangements for their care and treatment.
6. The Committee asked whether the Scottish Government would extend the reach of Section 297 of the 2003 Act to enable police officers to remove a person from a private dwelling place to a place of safety. The Committee also asked the Scottish Government to consider how the delivery of community based Compulsory

Treatment Orders by NHS Boards in Scotland might be improved to lessen the impact on the police service.

7. In his response, the Cabinet Secretary for Justice and Veterans indicated that it would be inappropriate to comment on any potential legislative reforms until the Review had completed its work.

## **Actions**

8. **Members may wish to consider asking the Scottish Government whether it agrees with the Review's criminal justice related recommendations.**
9. **Members may also wish to seek an update on the possibility of amending Section 297 of the Mental Health (Care and Treatment) (Scotland) Act (2003), and introducing measures to improve the delivery of community based Compulsory Treatment Orders.**

**Clerks to the Committee  
February 2023**