

Equalities, Human Rights and Civil Justice Committee

19th Meeting, 2023 (Session 6), Tuesday 3 October 2023

Regulation of Legal Services (Scotland) Bill

Note by the Clerk

Introduction

1. [The Regulation of Legal Services \(Scotland\) Bill](#) (“the Bill”) was introduced in the Parliament by the Cabinet Secretary for Justice and Home Affairs, Angela Constance on 20 April 2023.
2. The Parliament designated the Equalities, Human Rights and Civil Justice Committee as the lead committee for Stage 1 consideration of the Bill.
3. The Bill, accompanying documents and additional information provided by the Scottish Government can be accessed on its [dedicated webpage](#).
4. Also on that page is a [comprehensive briefing](#) on the Bill, prepared by the Scottish Parliament Information Centre (SPICe). The briefing incorporates—
 - a summary which provides background and context to discussions, reviews and consultations that have led up to the introduction of the Bill (page 4);
 - the main changes proposed by the Bill (pages 5 and 6);
 - an overview of legal services, legal service providers in Scotland and the current regulatory framework (pages 10 – 27);
 - background to the Bill (pages 28 – 32);
 - an overview of the main provisions in the Bill (pages 33 – 48);
 - Annexes 1, 2 and 3 provide respectively a diagram of the current regulatory landscape; the landscape proposed in the Robertson report; the landscape as proposed by the Bill.

Written evidence

5. The Committee issued a [call for views](#) on the Bill on 31 May 2023. The call for views closed on 9 August 2023. [Published responses](#) are available online.

6. Key themes highlighted in the responses are:
- Arguments in support of the principal recommendation of the Robertson Review, that an independent regulator should be created to regulate legal professionals
 - The interests of consumers and the importance of consumer principles
 - A general view that the current complaints system is overly complex and difficult for consumers to navigate
 - Strongly expressed concerns in some submissions about provisions in the Bill relating to the role of Scottish Ministers in the regulation of legal services which would impact on the independence of the judiciary.
7. On this final point, the Minister for Victims and Community Safety [wrote to the Committee](#) on 27 September 2023, indicating her “intention to bring forward amendments to the Bill at stage 2 intended to address the concerns in respect of the role placed on Scottish Ministers within the Bill”. The detail of what the Scottish Government propose to change is not yet known.

Approach to Stage 1 consideration

8. The Committee considered its approach to scrutiny of the Bill at Stage 1 at its meeting on Tuesday 5 September 2023. It agreed to begin taking oral evidence in early October with further sessions to be held in October and November 2023, and to consider in private the evidence heard during those sessions.
9. The Committee revisited its approach and timetable for evidence sessions at its work programme discussion on 19 September 2023. This followed the lodging of amendments for reconsideration of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill (“the UNCRC Bill”).
10. The Committee had previously agreed to prioritise any scrutiny in respect of reconsideration of the UNCRC Bill and, as such, agreed that following its initial evidence session on the Bill (in early October) it would resume taking evidence during November and December 2023.

Oral evidence

11. At this meeting, the Committee will take oral evidence on the Bill from witnesses representing consumer-facing bodies. It will hear from:
- Vicky Crichton, Secretariat, Scottish Legal Complaints Commission Consumer Panel;
 - Sharon Horvitz, Legal Director, Competition and Markets Authority;
 - Tracey Reilly, Head of Consumer Markets, Consumer Scotland;
 - Dr Marsha Scott, CEO, Scottish Women’s Aid.

12. Submissions from the organisations represented can be accessed on Citizen Space, with links provided in the Annexe to this paper.
13. At this session, the Committee is likely to explore in more depth key issues such as:
- What practical issues consumers of legal services, particularly women, children and young people are currently confronted with when seeking legal advice and support in Scotland;
 - Whether witnesses think that independent regulation of the legal profession is preferable to the current system of co-regulation or the proposals in the Bill;
 - In what ways independent regulation could help consumers and what role the Lord President would have
 - Problems within the current complaints system and whether the Bill seeks to address these effectively;
 - Views on how the Bill intends to liberalise alternative business structures (ABSs) and what impact this will have on consumers in practice.

Next steps

14. The Committee is due to resume evidence sessions in early November. **However, in light of the Minister's letter of 27 September, the Committee may wish to seek clarity from the Minister on the proposed amendments at stage 2 before it continues its scrutiny of the Bill at stage 1.**
15. **The Committee could either a/write to the Scottish Government or b/ invite the Minister in person. There is capacity to do so at its meeting on 24 October.** The purpose of this additional session would be to provide clarity of what is now being proposed for these key sections of the Bill before taking any further evidence, which could prove to be out-of-date without clarity on what the Minister intends to change.
16. **Subject to Members' views, this can be discussed further at agenda item 5.**

**Clerks to the Committee
September 2023**

Annexe: written submissions provided by the organisations represented at this meeting can be accessed online.

- [Scottish Legal Complaints Commission Consumer Panel](#)
- [Competition and Markets Authority](#)
- [Consumer Scotland](#)
- [Scottish Women's Aid](#)