

## REPORT TO COMMUNITIES COMMITTEE – 9 DECEMBER 2021

### CONSULTATION ON COVID RECOVERY: PUBLIC HEALTH, SERVICES, AND JUSTICE SYSTEM REFORMS

#### 1 Reason for Report / Summary

- 1.1 This report details Aberdeenshire Council's response to the Scottish Government's consultation on Covid Recovery: public health, services and justice reforms.

#### 2 Recommendations

**The Committee is recommended to:**

- 2.1 Acknowledge Aberdeenshire Council's response submitted under delegated powers and following consultation.**

#### 3 Purpose and Decision Making Route

- 3.1 The report informs the committee of the Council's response to the consultation, submitted under delegated powers due to the submission deadline. The response was agreed by the Chair, Vice Chair and Opposition Spokesperson of the committee prior to submission.

#### 4 Discussion

- 4.1 The Scottish Government launched its [Covid Recovery: public health, services and justice reforms](#) consultation on 17 August 2021. The Scottish Government wants to review the impact of Covid and remove measures no longer needed in order to respond to the pandemic, whilst keeping those where there is demonstrable benefit to the people of Scotland.
- 4.2 Proposals in the consultation can be categorised as follows:
- Proposals for greater public health resilience, to protect Scotland against future public health threats;
  - Proposals for public services and justice system reform, to ensure that the benefits of practical modernisations put in place during the pandemic are maintained; and
  - Proposals to respond to the impact of Covid in the justice system specifically, where backlogs have unavoidably built up.
- 4.3 The Council's Business Strategy Team led on the coordination of the draft response across services, with the survey being emailed to relevant Service Managers. Responses were collated and circulated to Chief Officers for additional comment or amendment. The draft response was approved by Strategic Leadership Team on 27 October 2021.

- 4.4 As specified by the Scheme of Governance, due to the timelines of Communities Committee meetings, the draft response was sent to the Chair, Vice Chair, and main Opposition Spokesperson of the Communities Committee for review and consultation. The response was approved and submitted by the Head of Customer & Digital Services under delegation on 9 November 2021.
- 4.5 In summary, Aberdeenshire Council agrees that the majority of the temporary legislation covered by the consultation can be extended and made permanent, with some specifying extra support that is required, e.g. better communication or additional funding from the Scottish Government, should the legislative powers be invoked again.
- 4.6 There are a few exceptions where it is felt that the legislation should only be extended for a temporary period. These are: powers to close educational establishments; and criminal justice legislation related to early release of prisoners, expiry of undertaking, national court beginning with an appearance from custody, and time limits for different processes. Reasons are detailed in the response in the appendix.
- 4.7 Another exception is tenancies: protection against eviction where it is felt the legislation should not be extended or made permanent. Reasons are detailed in the response in the appendix.

## 5 Council Priorities, Implications and Risk

- 5.1 This report is relevant to the following Council priorities [delete as appropriate]

<b><i>Pillar</i></b>	<b><i>Priority</i></b>
<i>Our People</i>	<i>Education Health &amp; Wellbeing</i>
<i>Our Environment</i>	<i>Infrastructure Resilient Communities</i>
<i>Our Economy</i>	

- 5.2 The table below shows whether risks and implications apply if the recommendations are agreed.

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Financial			x
Staffing			x
Equalities and Fairer Duty Scotland			x
Children and Young People's Rights and Wellbeing			x

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Climate Change and Sustainability			x
Health and Wellbeing			x
Town Centre First			x

5.3 An integrated impact assessment is not required because this is a response to a consultation and the report does not have a differential impact on any of the protected characteristics.

5.4 The following Risks have been identified as relevant to this matter on a Corporate Level:

- *ACORP002: Changes in government policy, legislation and regulation*  
This report centres on a response to a consultation, however this risk will be relevant going forward as legislation changes may be made.  
(Link to [Corporate Risk Register](#))

## **6 Scheme of Governance**

6.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

6.2 The Communities Committee is able to note this report in terms of Section D.1.1 of Part 2 A - List of Committee Powers in the Scheme of Governance.

### **Ritchie Johnson, Director of Business Services**

Report prepared by: Erin Wood, 18 November 2021

### **List of Appendices**

Appendix 1 – Consultation response

## Covid recovery: a consultation on public health, services, and justice system reforms



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### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:  
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Aberdeenshire Council

Phone number

01467 533031

Address

Woodhill House, Westburn Road, Aberdeen AB165GB

Postcode

03456081208

Email Address

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

#### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No

## Questionnaire

### Chapter 2: Public health resilience

#### Question 1: Education: powers to make directions to close educational establishments, and to ensure continuity of education

It is proposed that the provisions for Topic H1 (Education: powers to make directions to close educational establishments, and to ensure continuity of education) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic H1 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic H1 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic H1 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic H1, or the proposal for permanence, please write them below.

Aberdeenshire Council recognises the medium-term need for these regulations but does not consider that there is a need for longer-term, permanent legislative provision.

#### Question 2: Power to make public health protection regulations

It is proposed that the provisions for Topic H2 (Power to make public health protection regulations) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic H2 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic H2 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic H2 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic H2, or the proposal for permanence, please write them below.

The power for Scottish Government to continue to be able to make public health protection regulations offers the opportunity to quickly implement, when required, a range of measures designed to prevent and control infectious disease and contamination incidents. However, it is vital that the extent and nature of proposed legislative measure is communicated timeously with key structures at NHS Board, Health and Social Care Partnership and Local Government level, and also structures such as Community Planning Partnerships.

### Question 3: Vaccinations and immunisations

It is proposed that the provisions for Topic H3 (Vaccinations and immunisations) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic H3 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic H3 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic H3 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic H3, or the proposal for permanence, please write them below.

The Council is a key partner in terms of delivery of the vaccination programme with NHS Grampian and would support this proposal. It needs to be properly funded - council resources (staff and people) have been mobilised to support this activity and this cannot be sustained in the long-term

### Question 4: Virtual public meetings under the Schools (Consultation) (Scotland) Act 2010

It is proposed that new permanent legislative provisions for Topic H4 (Virtual public meetings under the Schools (Consultation) (Scotland) Act 2010) as described will be developed. Which of the following best describes what you think about this?

- I think the proposed provisions for Topic H4 should be developed
- I do not think the proposed provisions for Topic H4 should be developed
- Unsure
- I have no view

If you have any comments on the proposed provisions for Topic H4 please write them below.

A degree of flexibility in the current requirements would be welcome. It would be prudent to prepare for future public health emergencies and avoid unnecessary legal challenges and delays which can, for example, risk funding streams. These changes are appropriate and are the clarification that a number of authorities were seeking during the first lockdown and phased reopening.

## Chapter 3: Public services & justice system

### Question 5: Alcohol licensing remote hearings

It is proposed that the provisions for Topic P1 (Alcohol licensing remote hearings) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P1 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P1 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P1 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P1, or the proposal for permanence, please write them below.

The Licensing Board was consulted and supports the proposal. It provided the following comments in support of the proposal:

- The Board stated that it should continue to be empowered to have the discussion and make the choice as to whether to have remote alcohol hearings, and that this should be a permanent discretion afforded to the licensing board
- The Board commented that it should be clarified that 'in person' and 'in public' have two different meanings, distinct from one another, and having a remote meeting does not mean that the meeting is not also in public. It should be clear remote meetings are recognised as a proper meeting of the Board
- It was noted that the ability to choose to hold meetings remotely is particularly relevant in circumstances where there is a short agenda for the meeting, meaning that if it were held in person, due to the geographical area the Aberdeenshire Board covers, many would spend more time travelling to the meeting than being in attendance.
- This point was also made in regard to members of the licensed trade who attend board meetings. If these meetings are in person there is often a large wait time for them, sometimes lasting hours, only to have a small amount of participation in the meeting.

- The Board commented that the remote hearings they had held had been very successful throughout the pandemic.
- The Board noted that extending these provisions does not mean every meeting will always be online, the important issue is choice. If public health considerations and meeting content deems an in-person board more appropriate, then this will still be the case and there also could be an option for hybrid meetings.
- The Board were in agreement the current scheme of delegation should remain as is.

**Question 6: Bankruptcy: debt level that enables creditors to pursue the bankruptcy of a debtor through the courts**

It is proposed that the provisions for Topic P2 (Bankruptcy: debt level that enables creditors to pursue the bankruptcy of a debtor through the courts) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P2 should be extended beyond March 2022 and made permanent (i.e. with a creditor petition debt level of £10,000 as per the current provisions)
- I think the provisions for Topic P2 should be extended beyond March 2022 and made permanent with an amended creditor petition debt level of £5,000
- I think the provisions for Topic P2 should be extended beyond March 2022 (i.e. with a creditor petition debt level of £10,000 as per the current provisions), but not made permanent
- I think the provisions for Topic P2 should be extended beyond March 2022 with an amended creditor petition debt level of £5,000, but not made permanent
- I do not think the provisions for Topic P2 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P2, or the proposal for permanence, please write them below.

No comment

**Question 7: Bankruptcy: electronic service of documents**

It is proposed that the provisions for Topic P3 (Bankruptcy: electronic service of documents) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P3 should be extended beyond



March 2022 and made permanent

- I think the provisions for Topic P3 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P3 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P3, or the proposal for permanence, please write them below.

No comment

**Question 8:**

It is proposed that the provisions for Topic P4 (Bankruptcy: moratoriums on diligence) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P4 should be extended beyond March 2022 and made permanent (i.e. with a moratorium period of 6 months as per the current provisions)
- I think the provisions for Topic P4 should be extended beyond March 2022 and made permanent with an amended moratorium period of 12 weeks
- I think the provisions for Topic P4 should be extended beyond March 2022 (i.e. with a moratorium period of 6 months as per the current provisions), but not made permanent
- I think the provisions for Topic P4 should be extended beyond March 2022 with an amended moratorium period of 12 weeks, but not made permanent
- I do not think the provisions for Topic P4 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P4, or the proposal for permanence, please write them below.

No comment

**Question 9: Bankruptcy: virtual meetings of creditors**

It is proposed that the provisions for Topic P5 (Bankruptcy: virtual meetings of creditors) as described will be made permanent. Which of the following best

describes what you think about this?

- I think the provisions for Topic P5 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P5 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P5 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P5, or the proposal for permanence, please write them below.

No comment

#### **Question 10: Care services: giving of notices by the Care Inspectorate**

It is proposed that the provisions for Topic P6 (Care services: giving of notices by the Care Inspectorate) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P6 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P6 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P6 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P6, or the proposal for permanence, please write them below.

The advantages in relation to remote and hybrid working models of electronic notices has been demonstrated to minimise delays in activity linked to notices. Risks in relation to reliance on electronic notices will require to be managed by senders and recipients.

#### **Question 11: Civic government licensing remote hearings**

It is proposed that the provisions for Topic P7 (Civic government licensing remote hearings) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P7 should be extended beyond

March 2022 and made permanent

- I think the provisions for Topic P7 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P7 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P7, or the proposal for permanence, please write them below.

Aberdeenshire Council supports this proposal.

The Council's Licensing Sub-Committee was consulted and supports the proposal. It provided the following comments in support of the proposal for permanence:

- Remote hearings have allowed for flexibility and have increased accessibility to parties participating
- Remote hearings have allowed Councillors and parties to reduce travel time which is welcome in a large, rural area like Aberdeenshire
- The option to hold remote hearings is likely to be beneficial if there are extreme weather conditions because it allows the Committee business to be carried on increasing efficiency and accessibility
- The Committee now has considerable experience of doing hearings in this way so are able to run them effectively without compromising on confidentiality and security

The Members of the Committee also noted that decision making in respect of Immediate Suspension hearings could be improved in terms of efficiency if the Committee were able to delegate immediate suspension requests to senior officers rather than slow down the process by attempting to arrange a meeting of members. The Committee is aware that changes to this process can be made through its own Scheme of Governance but was keen to highlight this as part of the consultation so that this kind of efficiency could be encouraged at a national level.

### **Question 12: Courts: intimation, etc. of documents**

It is proposed that the provisions for Topic P8 (Courts: intimation, etc. of documents) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P8 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P8 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P8 should be extended or made permanent

- Unsure
- I have no view

If you have any comments on either the provisions for Topic P8, or the proposal for permanence, please write them below.

Aberdeenshire Council supports these measures. We would hope that other matters such as intimation of Guardianship could also be by electronic means where possible. Given the direction of travel is for a digital future and flexible working, we need to have the tools from the Scottish Government to be able to do that across the public sector.

**Question 13: Criminal justice: arrangements for the custody of persons detained at police stations**

It is proposed that the provisions for Topic P9 (Criminal justice: arrangements for the custody of persons detained at police stations) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P9 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P9 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P9 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P9, or the proposal for permanence, please write them below.

Should this provision be extended and/or made permanent, then there will be a need to ensure that Criminal Justice Social Work (CJSW) and other providers of support and services can have access to custodies in order to carry out assessments for Bail Supervision and Structured Deferred Sentences, welfare checks, etc. This is a barrier at present which is impacting on CJSW ability to provide the services to meet people's needs.

**Question 14: Freedom of Information: giving notice electronically**

It is proposed that the provisions for Topic P10 (Freedom of Information: giving notice electronically) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P10 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P10 should be extended beyond March 2022, but not made permanent

- I do not think the provisions for Topic P10 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P10, or the proposal for permanence, please write them below.

This makes sense in terms of digital future across the public sector.

### Question 15: Legal aid

It is proposed that the provisions for Topic P11 (Legal aid) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P11 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P11 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P11 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P11, or the proposal for permanence, please write them below.

No comment

### Question 16: Legal writings etc.

It is proposed that the provisions for Topic P12 (Legal writings etc.) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P12 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P12 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P12 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P12, or the proposal for permanence, please write them below.

Aberdeenshire Council agrees that making these provisions permanent is sensible for a digital future across the public sector. There is a need to ensure that appropriate technology is in place to facilitate contact.

**Question 17: Mental health: named person nomination**

It is proposed that the provisions for Topic P13 (Mental health: named person nomination) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P13 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P13 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P13 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P13, or the proposal for permanence, please write them below.

No comment.

**Question 18: Parole Board: delegation**

It is proposed that the provisions for Topic P14 (Parole Board: delegation) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P14 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P14 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P14 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P14, or the proposal for permanence, please write them below.

No comment.

**Question 19: Parole Board: live link**

It is proposed that the provisions for Topic P15 (Parole Board: live link) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P15 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P15 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P15 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P15, or the proposal for permanence, please write them below.

No comment.

**Question 20: Remote registration of deaths and still-births**

It is proposed that the provisions for Topic P16 (Remote registration of deaths and still-births) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P16 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic P16 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic P16 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P16, or the proposal for permanence, please write them below.

Aberdeenshire Council strongly supports the proposed provisions for Topic P16. The introduction of remote registration of death has enabled significant improvements to service delivery in Aberdeenshire across time, cost and quality considerations.

**Question 21: Remote registration of live births**

It is proposed that new permanent legislative provisions for Topic P17 (Remote registration of live births) as described will be developed. Which of the following best describes what you think about this?

- I think the proposed provisions for Topic P17 should be developed
- I do not think the proposed provisions for Topic P17 should be developed
- Unsure
- I have no view

If you have any comments on the proposed provisions for Topic P17 please write them below.

Aberdeenshire Council strongly supports the proposed provisions for Topic P17.

Introduction of remote registration of births will enable improvement to the time, quality and cost of delivering this essential service. As with introduction of remote registration of death, the current hybrid birth registration solution has proven our ability to collect essential information by telephone in a courteous, professional and empathetic manner.

However, in contrast with efficiencies realised through remote registration of death, the hybrid birth registration process has proven significantly less efficient than the traditional face-to-face appointment approach. The hybrid requirement for both i) telephone and ii) in-person appointments more than doubles staff time required to schedule and deliver each registration. This is complex to coordinate, increases staff workload and extends the time necessary to complete the registration process. Since the hybrid process was introduced in June 2020, Aberdeenshire registrars have registered approximately 3,000 births. This equates to approximately 750 hours (20.5 weeks) additional FTE time invested on the collection of signatures from Council offices which were otherwise closed to the public.

Delays relating to the delivery of hybrid birth registration have resulted in significant negative feedback from parents wishing to complete the birth registration process. This negative feedback stands in stark contrast to the overwhelmingly positive response to implementation of the remote registration of death. Introducing a remote delivery model will enable Aberdeenshire Registrars to consolidate client demand and respond in a collaborative and efficient fashion. This will improve our client response time while also enabling a reduction in FTE capacity required to meet this demand, and the introduction of remote registration of birth is therefore extremely desirable.

**Question 22: Tenancies: protection against eviction (discretionary grounds of eviction); and pre-action requirements for eviction proceedings on ground of rent arrears**

It is proposed that the provisions for Topic P18 (Tenancies: protection against eviction (discretionary grounds of eviction); and pre-action requirements for eviction proceedings on ground of rent arrears) as described will be made permanent. Which of the following best describes what you think about this?

- I think the provisions for Topic P18 should be extended beyond



March 2022 and made permanent

- I think the provisions for Topic P18 should be extended beyond March 2022 and made permanent, but only to the extent that rent arrears should continue to be a discretionary eviction ground – with all other eviction grounds returning to their pre-pandemic status
- I think the provisions for Topic P18 should be extended beyond March 2022, but not made permanent
- I think the provisions for Topic P18 should be extended beyond March 2022, but not made permanent, but only to the extent that rent arrears should continue to be a discretionary eviction ground – with all other eviction grounds returning to their pre-pandemic status
- I do not think the provisions for Topic P18 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic P18, or the proposal for permanence, please write them below.

Aberdeenshire Council has received feedback from landlords that they feel that tenants receive a lot of support from the Scottish Government whereas landlords receive none or very little. Some landlords rely on their rental income to live and the process of eviction is long and drawn out and only results in further arrears and financial hardship for them. Tenants don't really benefit either; arrears spiral out of control and still need to be addressed at some point. Therefore, by allowing tenants to accumulate those arrears puts more financial pressure on them and could prevent them securing a tenancy in the private sector in the future. We are already seeing landlords exit the sector and if this provision was made permanent this would be likely to increase. If the Scottish Government want to make this provision permanent then further funding would need to be provided to local authorities so that they can provide more support to tenants in the private rented sector. Currently local authorities only really provide support for Social Housing Tenants.

## **Chapter 4: Responding to the impact of COVID-19 in the justice system**

### **Question 23: Courts and tribunals: conduct of business by electronic means**

It is proposed that the provisions for Topic J1 (Courts and tribunals: conduct of business by electronic means) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J1 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic J1 should be extended beyond March 2022, but not made permanent

- I do not think the provisions for Topic J1 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic J1, or the proposal for extension beyond March 2022, please write them below.

We very much welcome digital flexibility, and it works very well for procedural matters. It makes sense to extend this provision in terms of future proofing judicial processes. A blended approach enables all parties to be flexible depending on their personal circumstances. There are some cases where a hearing can take place electronically but there are others where inspections are required on site. Virtual meetings can enable those landlords who may not be local to participate. Face to face hearings also allows for us to support the tenants, particularly in cases of poor condition of property. However, a virtual hearing may not be as intimidating as face to face.

#### **Question 24: Courts and tribunals: virtual attendance**

It is proposed that the provisions for Topic J2 (Courts and tribunals: virtual attendance) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J2 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic J2 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic J2 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic J2, or the proposal for extension beyond March 2022, please write them below.

Virtual attendance works very well for procedural matters and is very efficient and environmentally friendly. We support digital flexibility across the board, although it remains to be seen how effective Webex hearings (i.e. Proofs) will be and so these should be kept under review.

In housing matters, a blended approach enables all parties to be flexible depending on their personal circumstances. There are some cases where a hearing can take place electronically but there are others where inspections are required on site. Virtual meetings can enable those landlords who may not be local to participate. Face to face hearings also allows for us to support the tenants, particularly in cases of poor condition of property. However, a virtual hearing may not be as intimidating as face to face.

In terms of criminal justice, there is the proviso that the technology is in place to facilitate virtual attendance and that systems and/or processes are in place for services such as Criminal Justice Social Work and other support services to have access to the person who is appearing in Court, to offer support in another way (e.g. if they are not appearing in person).

**Question 25: Criminal justice: early release of prisoners**

It is proposed that the provisions for Topic J3 (Criminal justice: early release of prisoners) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J3 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic J3 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic J3 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic J3, or the proposal for extension beyond March 2022, please write them below.

This provision could be extended, however there would need to be absolute clarity around the circumstances in which the power may be used in future. It should only be used when absolutely necessary – such as it has been so far – and should not be used as a tool for managing the prison population.

**Question 26: Criminal justice: expiry of undertaking**

It is proposed that the provisions for Topic J4 (Criminal justice: expiry of undertaking) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J4 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic J4 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic J4 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic J4, or the proposal for extension beyond March 2022, please write them below.

There would be a need to ensure that the accused person understands the process, as this could potentially become quite confusing for people around when they need to appear in Court and when they do not.

**Question 27: Criminal justice: fiscal fines**

It is proposed that the provisions for Topic J5 (Criminal justice: fiscal fines) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J5 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic J5 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic J5 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic J5, or the proposal for extension beyond March 2022, please write them below.

We would support the increased use of alternatives to prosecution, such as diversion from prosecution, Fiscal Work Orders, Fiscal Fines, etc. – however a wider piece of work may be required to be carried out around what is an appropriate amount for these fines. Inflation will need to be taken into account however, as well as the current climate and people’s ability to pay in light of this.

**Question 28: Criminal justice: national court for cases beginning with an appearance from custody**

It is proposed that the provisions for Topic J6 (Criminal justice: national court for cases beginning with an appearance from custody) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J6 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic J6 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic J6 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic J6, or the proposal for extension beyond March 2022, please write them below.

In regard to the reference to the 'smaller number of Police centralised Custody Suites to enable custody courts to be conducted in a way that minimises unnecessary travel...', a wider discussion is required around the future of non-centralised Police Custody Suites and where they fit in terms of Community Justice Partner (including Criminal Justice Social Work) ability to offer support and assistance to people who are appearing in Court.

**Question 29: Criminal justice: time limits - relating to the time limit on summary-only cases at section 136 of the Criminal Procedure (Scotland) Act 1995 (1995 Act)**

It is proposed that the provisions for Topic J7(i) (relating to the time limit on summary-only cases at section 136 of the 1995 Act (Criminal justice: time limits)) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J7(i) should be extended beyond March 2022 and made permanent
- I think the provisions for Topic J7(i) should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic J7(i) should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic J7(i), or the proposal for extension beyond March 2022, please write them below.

This approach is necessary at present to deal with the backlog of cases but it should not routinely take 12 months for a Summary Case to come to court – this is too long for all parties to have to wait (victims, witnesses and perpetrators). Timely access to justice for all is essential.

**Question 30: Criminal justice: time limits - remand time limits at section 65(4) and section 147(1) of the 1995 Act**

It is proposed that the provisions for Topic J7(ii) (remand time limits at section 65(4) and section 147(1) of the 1995 Act (Criminal justice: time limits)) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J7(ii) should be extended beyond March 2022 and made permanent
- I think the provisions for Topic J7(ii) should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic J7(ii) should be extended or made permanent

- Unsure  
 I have no view

If you have any comments on either the provisions for Topic J7(ii), or the proposal for extension beyond March 2022, please write them below.

No comments.

**Question 31: Criminal justice: time limits - extending time limits relating to the maximum time between first appearance on petition and the first diet/preliminary hearing and commencement of the trial at section 65(1) of the 1995 Act**

It is proposed that the provisions for Topic J7(iii) (extending time limits relating to the maximum time between first appearance on petition and the first diet/preliminary hearing and commencement of the trial at section 65(1) of the 1995 Act (Criminal justice: time limits)) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J7(iii) should be extended beyond March 2022 and made permanent  
 I think the provisions for Topic J7(iii) should be extended beyond March 2022, but not made permanent  
 I do not think the provisions for Topic J7(iii) should be extended or made permanent  
 Unsure  
 I have no view

If you have any comments on either the provisions for Topic J7(iii), or the proposal for extension beyond March 2022, please write them below.

It would make sense to extend this provision given the current backlog but increasing the amount of time it takes for cases to come to Court would not be a positive step in the longer term.

**Question 32: Criminal justice: time limits - removing time limits on the length of individual adjournments for inquiries**

It is proposed that the provisions for Topic J7(iv) (removing time limits on the length of individual adjournments for inquiries (Criminal justice: time limits)) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J7(iv) should be extended beyond March 2022 and made permanent  
 I think the provisions for Topic J7(iv) should be extended beyond March

2022, but not made permanent

- I do not think the provisions for Topic J7(iv) should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic J7(iv), or the proposal for extension beyond March 2022, please write them below.

An extension of this provision would be helpful at the current time, to allow time to respond, with more flexibility – for example where there are requests for additional information that may take longer to gather than normal, due to COVID.

### Question 33: Proceeds of crime

It is proposed that the provisions for Topic J8 (Proceeds of crime) as described will be extended beyond March 2022. Which of the following best describes what you think about this?

- I think the provisions for Topic J8 should be extended beyond March 2022 and made permanent
- I think the provisions for Topic J8 should be extended beyond March 2022, but not made permanent
- I do not think the provisions for Topic J8 should be extended or made permanent
- Unsure
- I have no view

If you have any comments on either the provisions for Topic J8, or the proposal for extension beyond March 2022, please write them below.

No comments.

## Chapter 5: Final questions

### Question 34: Covid recovery

To support the key three themes for Covid recovery as described, do you have any proposals for legislation which goes beyond or is different to the consultation proposals in Chapters 2 to 4?

- Yes
- No
- Unsure

I have no view

If you have selected “Yes” please write your comments below. It would be helpful if you could refer to which of the three themes are of particular interest to you.

Topic P18 – Protection against eviction

With regards to the extension of protocols and topic P18 - rather than instructing landlords to carry out pre-action requirements, funding should be provided to Local Authorities to enable them to support private sector tenants when faced with eviction.

Registrars - Marriage and Civil Partnership Notices

Aberdeenshire Council would also welcome an amendment to the current process for submission of Marriage and Civil Partnership Notices to enable the remote submission of notices to marry / civilly partner.

Current legislation regarding submission of marriage or civil partnership notices requires receipt of paper documents in order to be formally accepted, and then lodged. A desirable amendment to this process would be to allow scanned marriage notices to be formally accepted and lodged – on the proviso that original documents must be received and reviewed \*prior\* to issuance of the Marriage Schedule. It is already the case that paper documents supporting an application to marry/civilly partner must be reviewed prior to issuance to the schedule. We therefore suggest that the paper M10 and CP10 documents be treated in a similar manner. The requirement for prior receipt of paper documents creates an obstacle to efficient provision of this service, particularly while office use remains limited. We are currently reliant on the arrival of paper notices by post prior to formal acceptance - this results in a complicated and inefficient process.

We would therefore be grateful if the scope of consideration for post-Covid amendments in respect of Registration could therefore be widened to consider this minor amendment to the process for submission of marriage and civil partnership notices.

**Questions 35 to 39: Do you have any comments on potential impacts of the proposals in Chapters 2 to 4 of this paper, not sufficiently covered by the previous impact assessments, on:**

**Question 35: Business and regulatory impact assessment**

- Yes I have comments on potential impacts
- No
- Unsure
- I have no view



If you have selected “Yes” please write your comments below. It would be helpful if you could refer to topics of particular interest to you with their topic codes.

No comments.

**Question 36: Child rights and wellbeing impact assessment**

- Yes I have comments on potential impacts
- No
- Unsure
- I have no view

If you have selected “Yes” please write your comments below. It would be helpful if you could refer to topics of particular interest to you with their topic codes.

No comments.

**Question 37: Equality impact assessment**

- Yes I have comments on potential impacts
- No
- Unsure
- I have no view

If you have selected “Yes” please write your comments below. It would be helpful if you could refer to topics of particular interest to you with their topic codes.

Appropriate action will be required to ensure that the risk of further exacerbating inequalities through the implementation of legislative measures is minimised and where appropriate a range of action to mitigate these risks is implemented.

The eviction from dwelling houses provisions will continue to have a positive impact for tenants in the private and social rented sectors who have been impacted during the pandemic and find themselves in a vulnerable financial position. Although, in some circumstances, we feel this could have a negative impact as tenants continue to build up rent arrears, landlords are further out of pocket, and there is relationship breakdown between private landlord and tenant. This could have a negative impact if the tenant wishes to remain in the private sector. Landlords would potentially not be willing to provide a favourable reference.

**Question 38: Socio-economic equality impact assessment (the Fairer Scotland Duty)**

- Yes I have comments on potential impacts
- No

- Unsure
- I have no view

If you have selected “Yes” please write your comments below. It would be helpful if you could refer to topics of particular interest to you with their topic codes.

**Question 39: Human rights**

- Yes I have comments on potential impacts
- No
- Unsure
- I have no view

If you have selected “Yes” please write your comments below. It would be helpful if you could refer to topics of particular interest to you with their topic codes.

**Question 40: Data protection impact assessment**

Do you have any comments on potential impacts of the proposals in Chapters 2 to 4 of this paper on data protection and privacy (the handling of personal data)?

- Yes I have comments on potential impacts
- No
- Unsure
- I have no view

If you have selected “Yes” please write your comments below. It would be helpful if you could refer to topics of particular interest to you with their topic codes.

**Question 41: Island communities impact assessment**

Do you have any comments on potential impacts of the proposals in Chapters 2 to 4 of this paper on people in rural or island communities?

- Yes I have comments on potential impacts
- No
- Unsure
- I have no view

If you have selected “Yes” please write your comments below. It would be helpful if you could refer to topics of particular interest to you with their topic codes.

**Question 42: Strategic environmental assessment**

Do you have any comments on potential impacts of the proposals in Chapters 2 to 4 of this paper on the environment?

- Yes I have comments on potential impacts
- No
- Unsure
- I have no view

If you have selected “Yes” please write your comments below. It would be helpful if you could refer to topics of particular interest to you with their topic codes.

**Question 43: Financial Memorandum**

Do you have any comments on the financial implications of the proposals in Chapters 2 to 4 of this consultation paper for public bodies, individuals and businesses, having regard to the Financial Memorandum for the Extension and Expiry Bill?

- Yes I have comments on potential impacts
- No
- Unsure
- I have no view

If you have selected “Yes” please write your comments below. It would be helpful if you could refer to topics of particular interest to you with their topic codes.

Most of the changes highlight a no gain or loss situation.