

## Response ID ANON-HKVK-CFQ3-1

Submitted to Coronavirus (Recovery and Reform) (Scotland) Bill (Detailed)  
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### About you

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How your response will be published

I would like my response to be published in its entirety

What is your name?

Name:  
Jonny Adamson

What is your email address?

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Are you responding as an individual or on behalf of an organisation?

Organisation

### Organisation details

Name of organisation

Name of organisation:  
Scottish Association of Social Work (SASW)

Information about your organisation

Please add information about your organisation in the box below:

The Scottish Association of Social Work (SASW) is part of the British Association of Social Workers, the largest professional body for social workers in the UK. BASW UK has 21,000 members employed in frontline, management, academic and research positions in all care settings.

There are over 10,000 registered social workers in Scotland around 1,500 of whom are SASW members. This comprises staff working in local government and the independent sector, across health and social care, education, children and families, justice services, as well as a growing number of independent practitioners.

SASW's key aims are:

- Improved professional support, recognition, and rights at work for social workers,
- Better social work for the benefit of people who need our services, and
- A fairer society

Social work is a complex profession. In legislation it is empowered to act and work with people made vulnerable by their circumstances. It balances their rights with those of others and considers the risks of their actions on themselves, their families and wider society. Social work sees people in their own individual context. It recognises individual relationships, strengths, challenges and human rights to safety and protection.

We work with individuals and groups who are often on the edges of society who are far less likely to campaign or lobby about their rights, and who struggle to stay afloat when the scaffolding of support is stripped away.

We welcome the opportunity to contribute to the Covid-19 Recovery Committee's inquiry into the Coronavirus (Recovery and Reform) (Scotland) Bill.

### Public Health Resilience

Modifications of the Public Health Etc. (Scotland) Act 2008 (Part 1, Chapter 1)

Yes

Please provide more detail in this box, keeping in mind the questions at the top of the page.:

In the case of a public health emergency, it makes sense for central government to have the ability to make swift decisions in the interests of protecting the population. With decisions being made at central government level, there is a lower risk of mixed messages and communications which makes it easier for people to follow rules and guidelines.

Given the unprecedented nature of the measures that government had the power to impose in response to a public health emergency, such as lockdowns, it is vitally important that government engages with services, such as social work, to understand the impact of enacting such extreme measures. Whilst many would agree that introducing these measures was necessary to protect the population against the threat of Covid-19, they have inevitably impacted on other aspects of people's lives. For example, there is considerable concern amongst social workers that significant numbers of vulnerable children and adults have not been able to access support services throughout the pandemic.

Consideration must therefore also be given to what actions the government can take to alleviate the impact of unintended consequences as a result of imposing restrictions. For example, many people suffered poor mental health and loneliness because of self-isolation measures, particularly those in care homes who were separated from their families for long periods of time. As well as recognising the likely unintended consequences, action must be taken to minimise its impact.

Any government with power to enact strict lockdown measures must also acknowledge its responsibility to fully risk assess and take into account the wide ranging impact of enforcing such rules. Future public health emergencies might not warrant such a strict response and, if the government should retain these powers, any response must be proportionate to the level of threat facing the population.

Arrangements for vaccination and immunisation (Part 1, Chapter 2)

Yes

Please provide more detail in this box, keeping in mind the questions at the top of the page.:

Allowing health professionals other than doctors the responsibility to administer vaccinations seems like a sensible way to alleviate pressure on health services and therefore would be an appropriate approach to consider. As long as health professionals have the required training, experience and support to deliver this service then it seems a good solution for increasing capacity and administering vaccinations quicker, thus better protecting the population.

Professionals from across the healthcare system played an important role in the successful rollout of the Covid-19 vaccination programme, including student medics and nurses. This should not be confined to public health emergencies and staffing resources should be maximised whenever possible to ensure that vaccinations are administered as efficiently as possible.

Care services: giving of notices by SCSWIS

Yes

Please provide more detail in this box, keeping in mind the questions at the top of the page.:

As long as the electronic delivery system is safe and secure, it would be beneficial to make permanent the provision to allow formal notices to care homes to be sent electronically. This would make the sending of this important information more swift and remove any unnecessary delays.

Sending a confirmation receipt when the email has arrived as a mandatory requirement could act as an additional safeguard to minimise the risk of information not arriving on time due to technical problems.

Education

Educational Establishments etc. (Part 2, Chapter 1)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

It is recognised that central government needs to take difficult decisions to protect the population against public health threats. In the case that an educational establishment needs to be closed for a period of time in the interests of public health, it is correct that the government has the remit to make this decision, particularly if it needs to be taken without delay. In particular, staff and young people who are especially vulnerable in instances of a public health emergency, such as those with underlying health conditions or who have a disability, should not be put at risk when attending their work or place of education.

However, as mentioned in the response to the modification of the Public Health Act to give central government the authority to impose restrictions, it is imperative that the government conducts a risk assessment before taking decisions and ensures that all decisions are a proportionate response to the level of threat. Government must take steps to weigh up harms and consequences of closing educational establishments and such decisions should not be taken lightly or as a matter of first resort unless in extreme circumstances.

Closing schools risks creating more disruption to learning, increasing the risk of harms to mental health of young people caused by isolation and lack of routine and potentially widen the attainment gap between those who have better access to technology and those who do not. It is also widely known that

educational establishments offer an important route to social services for those who need support. If young people cannot attend educational establishments in person, there is an increased risk that young people who might need help could be missed or identified much later than if they were seen by staff on a regular basis.

Furthermore, as many families experienced during the pandemic, home schooling places more pressure on carers and families. For those who are already struggling, this additional pressure can compound problems and potentially lead to crisis situations. This in turn places more demand on social work services and caseloads both in the short and long term.

Therefore, protecting public health is a necessary justification for closing educational establishments but, the government must consider all associated harms when making any decision.

#### School Consultations (Part 2, Chapter 2)

No

Please provide your response in the box, keeping in mind the questions at the top of the page.:

An environment where meetings and relevant documentation are only accessible digitally risks unfairly excluding families who are not well equipped to access the appropriate online platforms. Variations in access to technology, levels of connectivity and skill sets could prevent some families from having the means or the confidence by which to engage with schools online. Some families might not be able to afford to upgrade, replace or fix technology as required to enable them to participate online. This is even more prevalent at the moment given the cost of living crisis, with some families already struggling to afford basic needs such as food and heating.

A hybrid model where people can choose to attend meetings in-person or online and access documents in paper form and online, thus giving people choice about how they interact and communicate with schools, would be preferable.

#### Bankruptcy

##### Bankruptcy (Part 3, Clauses 15-17)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

The increasing of the threshold for a qualified creditor to £5000 is a welcome change, especially taking into account the current financial uncertainties faced by households with the rising cost of living. Social workers have reported higher numbers of families needing to use food banks and falling into food and fuel poverty in recent months. Combined with the end of furlough, the removal of the £20 uplift to Universal Credit and rising national insurance and council tax, many people are facing the perfect storm of economic challenges. Given this fragile situation, it would be very unfair and potentially damaging to lower the debt level back to £3000. Similarly, increasing the level further to £10000 would risk people entering into too high a level of debt that could prove harmful in the longer term. On that basis, £5000 seems an appropriate limit.

However, moving to electronic service of bankruptcy documents and virtual meetings once again risks disadvantaging individuals with limited access to appropriate technology or the required digital skills. It increases the likelihood that certain parts of the population become digitally excluded. Bankruptcy is a challenging and potentially distressing time for people in this situation and having face-to-face meetings could make people feel safer and more secure, particularly if they are not familiar with technology. It should also be considered that those experiencing financial difficulties might not be in a position to pay for broadband or electronic devices.

Whilst we support the provisions in principle to enable the threshold for a qualified creditor to increase, we do not want to see a permanent move to electronic documents and virtual meetings only. There must be an opportunity for a hybrid approach whereby individuals have a personal choice.

#### Public Services and Justice System Reform

##### Civic licensing (Part 3, Clauses 21-22)

No

Please provide your response in the box, keeping in mind the questions at the top of the page.:

Extending the provision for virtual attendance at courts and tribunals could discriminate against those without the necessary skills or access to appropriate technology. A lack of public access to virtual hearings could also impact on a defendant's right to a fair and open trial. It could also be harder for the accused to consult with their legal representatives or seek legal advice in a virtual hearing which impacts on their legal rights. Having a hybrid approach of both in-person and remote hearings on a case-by-case basis would seem the fairest and most effective approach to take.

##### Alcohol licensing (Part 3, Clause 23)

No

Please provide your response in the box, keeping in mind the questions at the top of the page.:

As mentioned in the response to making permanent the provision for remote civic licencing hearings, extending the provision for virtual attendance for alcohol licencing proceedings could unfairly discriminate against those without the necessary skills or access to appropriate technology. Having a hybrid approach of both in-person and remote hearings on a case-by-case basis would seem the fairest approach to take.

#### Land registration (Part 3, Clauses 24-25)

Don't know

Please provide your response in the box, keeping in mind the questions at the top of the page.:

No view taken on these provisions.

#### Legal aid and advice (Part 3, Clause 26)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

Increased availability of interim payments for legal aid and advice on a permanent basis could encourage more firms and solicitors to offer these services. This would therefore benefit individuals who require access to legal aid support. More flexibility around payments will also assist people to access the correct and appropriate legal support for their case. This in turn might prevent instances of miscarriages of justice and wrongful convictions. As well as placing more strain on prison services, wrongful convictions have serious and often life-changing implications for individuals and families. Increasing the chances that people can access the right legal support quickly is therefore an important step.

#### Mental health (Part 3, Clause 28)

No

Please provide your response in the box, keeping in mind the questions at the top of the page.:

The requirement for a witnessed signature in the case of an individual agreeing to become a named person is an important safeguarding measure. It not only acts as a way to verify the named person but is also an opportunity to inform them of the role, allow them to ask any questions, ensure they have an understanding of the responsibilities and to confirm that they are competent and able to perform the functions correctly. This is particularly important since there is little guidance around the role and responsibilities of a named person.

It may be appropriate for the witness to be present remotely, rather than always in person. This could prevent any potential delays to care and treatment that could be the consequence of a witness not able to be present in person. Either way, it would be preferential for the witness to be present in some capacity to ensure that the process is not open to abuse or less secure.

#### Requirements of writing (Part 3, Clause 30)

No

Please provide your response in the box, keeping in mind the questions at the top of the page.:

As mentioned in response to the provision around mental health, a witness being physically present in the same room as an individual signing a document, taking an oath or making an affirmation or declaration is an important safeguarding measure. It removes the risk of misinterpretation and abuse and protects the individual signing or subscribing the document.

#### Custody at police stations (Part 3, Clause 31)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

This provision is necessary in order to give prisoner custody officers the authority to have custody of a person who is appearing before a court virtually from a police station.

However, a very specific concern relating to the role of criminal justice social work was raised during the public consultation about this proposal. Allowing prison custody officers to carry out their functions of transfer or custody of prisoners within police stations could potentially restrict or limit access for criminal justice social workers. This would impact on the rights of the individual held in custody and prevent them from accessing important services.

It is therefore important that, if these provisions become permanent, criminal justice social workers will be able to access to those in custody in order to carry out assessments for Bail Supervision and Structured Deferred Sentences, welfare checks, etc. Whenever a person is in custody, they must have access to the full range of professionals, including social workers.

#### Parole Board for Scotland (Part 3, Clause 32)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

Allowing more flexibility in how parole boards are chaired would presumably prevent delays and subsequent backlogs to parole board hearings. This is fairer for prisoners who would otherwise have had to wait longer for their case to be heard for reasons that were outside of their control.

## Freedom of Information; and Registration of Deaths, Still-Births and Live Births

### Registration of births (Part 3, Clause 18)

No

Please provide your response in the box, keeping in mind the questions at the top of the page.:

The risk of digitally excluding individuals and families without the means or skills to access remote registration is once again a real concern. While it is acknowledged that a remote process is likely to be a more flexible, quicker and streamlined process for those overseeing the system, it potentially adds digital barriers to those not as comfortable using technology. Individual choice is important and so a hybrid approach that still gives people the choice to register in person would be desirable.

### Registration of deaths (Part 3, Clauses 19-20)

No

Please provide your response in the box, keeping in mind the questions at the top of the page.:

The risk of digitally excluding individuals and families without the means or skills to access remote registration is once again a real concern. While it is acknowledged that a remote process is likely to be a more flexible, quicker and streamlined process for those overseeing the system, it potentially adds digital barriers to those not as comfortable using technology. Individual choice is important and so a hybrid approach that still gives people the choice to register in person would be desirable.

It is also recognised that some individuals and families might prefer remote registration of a death or still given that it is an upsetting and potentially distressing time. Some might prefer to have more privacy and space. However, it should be down to individual choice and therefore the option of in-person registration should not be removed for those who would prefer it.

### Freedom of information (Part 3, Clause 27)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

Making the process of delivering notices to public bodies fully electronic would potentially make it a faster and more efficient process which, in turn, would allow public bodies to respond to freedom of information requests more swiftly.

## Tenancies and Evictions

### Removal of mandatory eviction grounds (Part 4, Clauses 33-35)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

Removing mandatory eviction grounds offers more security to tenants and significantly reduces the risk of homelessness. Leaving all eviction grounds on a discretionary footing where the tribunal has to consider all circumstances on a case-by-case basis is fairer. This includes taking into account factors such as appropriate housing (if any modifications are required for people with disabilities, for example).

Tenants should be supported to remain in their homes and, if needed, consideration given to other solutions if it is deemed that the tenant cannot remain in their current home. All options must be explored to avoid instances of homelessness, families being potentially separated and associated risks which all place significant pressure on social work services.

### Pre-action protocol in respect of evictions relating to rent arrears (Part 4, Clauses 36-37)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

Pre-action requirements for rent arrears offers more protection for tenants against the likelihood of eviction and, again, significantly reduces the risk of homelessness. In the event that a tenant is struggling to keep up with rent payments, all options should be explored to find a solution that allows the tenant to continue living in their home and for the landlord to receive payment owed to them.

Allowing landlords the power of eviction as a first step is a disproportionate response to the problem of rent arrears and does not take into account individual circumstances of the tenant. In contrast, taking reasonable steps to agreeing a payment plan that works for both parties and considering what external support is available is a better approach. All options must be explored to avoid instances of homelessness which places significant pressure on social work services.

## The Impact of COVID on the Justice system

### Temporary provisions (Part 5, Clauses 38-42)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

The 30th November 2023 seems a sensible timeframe by which any temporary provisions would be reviewed.

### Supporting provisions (Part 5, Clauses 43-44)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

In cases where it is deemed appropriate and there is no known risk to the public's safety, early release from prison should be considered. This would reduce pressure on prison services and support the prisoner's rehabilitation process by safely reintegrating them back into the community.

Consideration must be given to all appropriate arrangements that should be put in place in instances of early release from prison. For example, using home detention curfews to allow for a gradual reintegration to the community. There must also be sufficient support in place to avoid instances where individuals instantly find themselves homeless when they are released from prison.

Processes must also be in place to ensure that victims of crime are kept fully informed and supported in cases where prisoners are released early. The rights of victims and their families must be upheld, considered and protected at all times.

The temporary extension of criminal procedure time limits should, where possible, be for the minimum time possible. Otherwise, there is a high risk that extending this provision will lead to the accused spending more time on remand than they should. This could be damaging to their mental health and wellbeing, impact on their personal finances and also have a negative affect on their relationships. This not only has a serious effect on the accused but also on their family.

### Schedule: Temporary Justice Measures (Schedule)

Yes

Please provide your response in the box, keeping in mind the questions at the top of the page.:

The yearly review of temporary changes to the law for the justice system is a sensible approach since it gives parliament time to reflect on the effectiveness of the changes, scrutinise them and make any further relevant changes as appropriate. A year is a reasonable timeframe by which to carry out reviews.