

Covid Recovery – A consultation on public health, public services and justice system reforms

The Scottish Social Services Council is the regulator for the social work, social care and early years workforce in Scotland. Our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce.

We protect the public by registering social service workers, setting standards for their practice, conduct, training and education and by supporting their professional development. Where people fall below the standards of practice and conduct we can investigate and take action.

We:

- publish the national codes of practice for people working in social services and their employers
- register people working in social services and make sure they adhere to the SSSC Codes of Practice
- promote and regulate the learning and development of the social service workforce
- are the national lead for workforce development and planning for social services in Scotland.
- Are an ONS statistics provider

We do not feel it would be appropriate for us to comment on the majority of the questions in the current consultation, however there are several topics on which we would like to provide our thoughts.

Consultation questions

Topic J1–Courts and tribunals: conduct of business by electronic means

Question 23: 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**

We believe the provisions concerning electronic signing and delivery of documents should be extended beyond March 2022 and made permanent.

Topic J2–Courts and tribunals: virtual attendance

Question 24: 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**

We believe the provisions allowing for virtual attendance at courts and tribunals should be extended beyond March 2022. Our experience in holding virtual hearings has shown that this can be an effective way to conduct hearings.

Question 27: 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**

We do not believe that the provisions for Topic J5 should be extended or made permanent, particularly in their current form. We are concerned that the increased use of alternatives to prosecution will negatively impact our ability to carry out our public protection function.

During the pandemic, there has been evidence that alternatives to prosecution have been used for behaviour that we would consider serious.

Such behaviour would prohibit an individual from gaining inclusion on our register or would prompt an investigation by our fitness to practise department which could result in the removal of the individual from our register. Our ability to thoroughly investigate allegations against social work, social care and early years practitioners is central to our role in protecting the public and promoting confidence in the workforce.

Presently we are prohibited from asking applicants and registrants about spent alternatives to prosecution in terms of schedule 3, paragraph 2(b) of the Rehabilitation of Offenders Act 1974. Therefore, we are deeply concerned that a continued increase in the use of alternatives to prosecution for matters considered to be minor offences by COPFS could severely limit our ability to respond to concerns by vulnerable people and their families.

We believe that the proposals in relation to the use of fiscal fines should not be adopted without ensuring that clear guidance is given regarding their use. It is also critical that the public protection functions of regulators and other bodies are not diminished by preventing them from access information about alternatives to prosecution that may have been applied in cases about which they have an interest.

Scottish Social Services Council

November 2021