



JUSTICE Scotland Strategy

2015 - 2017



About JUSTICE

The focus for all of JUSTICE's work is the fair, accessible and efficient operation of the justice system – encompassing administrative, civil and criminal justice, both outside and within the courts and tribunals – and the human rights of individuals within it.

JUSTICE was established in 1957 and became the UK section of the International Commission of Jurists a year later. JUSTICE is a membership organisation, primarily of the legal profession, comprising judges, barristers, solicitors, legal executives, academic lawyers, law students and interested non-lawyers.

On Scottish matters JUSTICE is assisted by its branch, JUSTICE Scotland, which was established in 2012.

JUSTICE works on an all-party basis, seeking to inform debate, frame issues and influence decision-makers from across the political spectrum.

JUSTICE works across the United Kingdom, including in the British Overseas Territories. JUSTICE is the UK section of the International Commission of Jurists.

The rule of law safeguards democracy and relies on an independent, effective and fair justice system to uphold it. Over the years, JUSTICE has maintained a reputation for being far-sighted, independent and practical in its approach to law reform.

The cornerstone of JUSTICE's work is high quality, evidence-based research which enables the organisation to generate, develop and evaluate ideas about the justice system.

Vision

JUSTICE is an all-party law reform and human rights organisation working to strengthen the justice system –

administrative, civil and criminal – in the United Kingdom. Our vision is of fair, accessible and efficient legal processes, in which the individual's rights are protected and which reflect the country's international reputation for upholding and promoting the rule of law.

Mission

We contribute to achieving our vision in three key ways:

- providing evidence-based analysis and proposing practical solutions to law-makers, judges and relevant public servants;
- strengthening the law and legal processes by reference to international and comparative best practice, looking across jurisdictions, across types of law and across the legal profession; and
- using the expertise of our membership to strengthen our understanding of the challenges arising in legal practice and of possible solutions, working with them to execute our vision.

Values

- We act with integrity, protecting our independence, objectivity and all-party approach.
- We strive for excellence in all aspects of our work.
- Our work is considered, and practical in approach.
- We strive to be forward looking, anticipating and setting the agenda for reform of the justice system.
- We work collaboratively within JUSTICE and with our partners, seeking consensus where at all possible.

What we do

- We carry out research and analysis to generate, develop and evaluate ideas for law reform. In doing so, we draw on evidence, experience and expertise from the United Kingdom and across the world.
- We intervene in superior domestic and international courts, sharing our research, analysis and arguments with courts to support their work and promoted strong and effective legal judgments.
- We promote a better understanding of the fair administration of justice among political decision-makers and public servants.
- We bring people together to discuss critical issues about the justice system, and to provide a thoughtful legal framework to policy debates.

About JUSTICE Scotland

“Its strength is in its unfailing objectivity. Scotland has much to gain from an organisation like JUSTICE”, Lord Hope of Craighead, launch of JUSTICE Scotland

In 2012 JUSTICE established a branch in Scotland to further its work in relation to devolved matters: JUSTICE Scotland.

The Scottish branch adopts the aims and approaches of JUSTICE in its work. Its particular emphasis in Scotland is to promote the development of the rule of law and human rights in a legal context by:

- Providing specialist legal advice and opinion on the law and legal procedures in order to assist law makers, the legal profession and interested groups, the media and the general public in the positive development of the law.
- Promoting law reform and conducting research on the law, comparative legal systems and the practice and administration of the law and by disseminating the results of such research.
- Promoting reform of legal provisions, practice and procedures with the aim of preventing miscarriages of justice.
- Assisting non-lawyers to voice concerns and contribute to the development of the law and human rights.

JUSTICE Scotland is in a unique position to further these aims, recognising the expertise and eminence of our members, and absence of other organisations focussed in this way.

Structure and Governance

Scottish Council

Membership of Council is drawn from across Scottish life in recognition of the value of wide-ranging input and advice, including the law, media, civil society, academia, politics and the business community. The Council meets twice a year to discuss the focus of JUSTICE Scotland's work.

Scottish Working Group

The Working Group has overall responsibility for conducting the work of JUSTICE Scotland and meets at least three times a year to decide work to be undertaken and further that work through sub groups or working parties.

Scottish Executive Committee

The Scottish Executive Committee is elected from the Working Group and provides strategic and administrative leadership for JUSTICE Scotland. It comprises Chair, Vice-chair, Treasurer, Secretary, former Chair and the Director of JUSTICE (ex-officio). It meets on a monthly basis and reports to both the Council of JUSTICE Scotland and the Executive Board of JUSTICE.

A Memorandum of Understanding between JUSTICE and JUSTICE Scotland sets out the roles and responsibilities for the governance and management of JUSTICE Scotland, in accordance with the JUSTICE Scotland Constitution.

Key Objectives for 2015 – 2017

JUSTICE Scotland will develop and deliver specific projects with the support of its members around the following key objectives:

1. We will work with JUSTICE to lead research and analysis on the operation of the justice system in Scotland – civil, criminal and administrative – and the human rights of individuals within the system, including but not limited to rights to fair trial, access to justice and equality. This will include briefing Parliamentarians on the proposals in the Criminal Justice (Scotland) Bill and, once implemented, reviewing its impact upon the criminal justice process from arrest through to appeal.
2. We will work with JUSTICE to lead research and thinking around the role of third party interventions in court proceedings and seek to promote the use of interventions in Scottish superior courts as a way to further the public interest.
3. We will hold events to facilitate discussion and exchange of ideas on topical legal issues, both within the JUSTICE Scotland membership and with external stakeholders.
4. We will consolidate and develop our engagement with the Scottish Parliament and with the Scottish Government.
5. We will develop a number of projects, to be delivered by working parties of our membership, in relation to the following priority areas:
 - Accessing legal assistance in the police station, with particular focus on suspects with mental health and learning difficulties
The *Cadder* case in 2010 paved the way for legal advice and representation in police stations in

Scotland. However, few suspects currently receive legal assistance at this crucial stage of the criminal justice system.

JUSTICE intervened in that case, commented on the provision of assistance in the joint academic project *Inside Police Custody* (Intersentia, 2014), and worked with ACPOS and the Law Society in Scotland to produce guidance for police officers and lawyers.

In this project we will seek to identify the continuing barriers to legal assistance, as well as other advocacy support for vulnerable suspects, and recommend ways to improve the availability of advice and representation.

- Procurement and admissibility of expert evidence in the Scottish courts

Since our earliest meetings about setting up what has become JUSTICE Scotland there is one topic around which there has been agreement of a need for scrutiny – expert evidence. It is an area which has been the subject of recent consideration in the *Hainey* and *Liehne* cases and it was a key part of the Fingerprint Inquiry into the McKie case. There have been recent changes in England in when and how expert opinion is admitted in evidence.

In Scotland the best approach to expert evidence has not yet been reached. There are challenges about defining what is expert, with recent attempts to extend the boundaries, and how it should be presented to a jury, with suggestions that disagreement amongst experts should, where possible, be resolved before trial.

We will work towards the provision of guidelines on the use of expert evidence in civil and criminal cases

to enable confidence in the outcomes associated with it.

- **Safeguarding Legal Professional Privilege**

Recent developments - such as, the publishing of draft codes of practice under section 71 Regulation of Investigatory Powers Act 2000, and the *Belhaj* case and *Prudential* cases have resulted in many in the legal profession calling for LPP to be specifically defined and protected.

JUSTICE Scotland considers that LPP discloses a substantive right to keep privileged material confidential. Clients must be sure that what they tell their lawyer in confidence will never be revealed without consent. LPP is thus much more than an ordinary rule of evidence, limited in its application to the facts of a particular case. It is a fundamental principle of justice.

We will seek to provide support for the development of primary legislation and a protocol – such as exists under the Police and Criminal Evidence Act 1984 – for the seizure of LPP material by the police during search.

Membership

JUSTICE is a membership organisation, and our members are among our greatest assets. Our members span from law students through the ranks of the profession to retired lawyers and judges. They include practitioners of all types of law, and all branches of the profession. While our members cover the spectrum of politics, they share a common concern in maintaining the integrity of the justice system in the United Kingdom.

We currently have 63 members in Scotland, out of a UK wide membership of 1,200. We aim to increase the number of members during the Strategy period through greater engagement and communication with the membership, and through increasing the profile of JUSTICE

Scotland. We will achieve this through three primary steps:

First, delivering our priority projects through working parties of leading and expert members of the legal profession in Scotland.

Second, holding a series of lectures, *Beyond Law*, spanning the Strategy period and aimed at members.

Third, a dedicated Scottish section of the JUSTICE website will signpost our work and activities.

Finances and fundraising

Recent years have been challenging financially for JUSTICE. The UK-wide and JUSTICE Scotland strategies will see a focus on sustainable income generation, from trusts and foundations, as well as from individual and corporate giving. In October 2014 a multi-year appeal was launched, *Securing JUSTICE at 60*, to allow us to implement the strategy and secure JUSTICE as it enters its 60th year in 2017. Funds raised in Scotland will assist directly in the advancement of JUSTICE Scotland. As a priority this will allow us to employ legal and administrative staff in Scotland.

The *Beyond Law* lecture series will involve two to three seminars each year between 2015-2018 delivered by well-known speakers from outside the legal profession who will engage us in a dialogue on the issues of access to justice and the rule of law in the UK today, seen from an alternative perspective. The aim of the series is to increase membership as well as funds in Scotland.

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