



Suspects in police detention need effective access to legal assistance

The importance of legal assistance during police detention needs to be better understood, not only by suspects but also by the solicitors tasked with providing that assistance, concludes the first working party report of law reform organisation JUSTICE Scotland, published today.

The report identifies that a concerning number of suspects in Scotland – around 70% – continue to waive the right to receive legal assistance at the police station, seven years after it was introduced, and six months after recent legislation re-affirmed the right. Moreover, of those who request legal assistance, only around 25% receive this in person at the police station and during police interview. This means that solicitors are providing telephone advice, but far less often, personal attendance at the police station.

The report makes 17 recommendations seeking to improve informed and effective exercise of the right to legal assistance.

This should start with improved public information, and **clear and simple information**, communicating the rights available to suspects in a way they will understand. A key recommendation is that **personal assistance by solicitors should be standard**. Face to face consultation and the presence of a solicitor during the police interview to represent the client's interests are important, if not essential, safeguards. Currently, many solicitor practices are not organised to enable this. Nor are most solicitors suitably trained for this broader role. The report concludes that with innovation, skill-based training and appropriate legal aid funding, solicitors can both be properly equipped to carry out this important role and make profitable business out of this work.

Lord Eassie, Chair of the Working Party, said, *“Much useful work to facilitate the right to legal assistance in the police station has already been undertaken – not least by Police Scotland, the SLAB Solicitor Contact Line and by solicitors in responding to a broadening role. Nevertheless, the take up of the right is far lower than it should be. The nature of the criminal justice process has been changing and cultural shift is required in order fully to realise the importance of this early stage in that process.”*

Chair of JUSTICE Scotland, Shelagh McCall QC, said, *“JUSTICE intervened in Cadder v HM Advocate, the UK Supreme Court case which brought the right to legal assistance into being and jointly conducted research on how rights are provided in police custody in four jurisdictions including Scotland. JUSTICE Scotland has long advocated the importance of legal advice during the early investigative stage. This timely report now seeks to ensure that the right is effective in practice.”*

Notes for editors

1. The report of the Working Party will be available on our website from 7pm on 7th June. An advanced copy is provided with this press release. The recommendations are set out in the Conclusion to the report.
2. *Legal assistance in the police station* was chaired by The Rt. Hon. Lord Eassie, former Senator of the College of Justice and former Chairman of the Scottish Law Commission, and comprised expert members from the legal profession, academia and police, with corporate support from Lloyds Banking Group and Pinsent Masons LLP.