

Justice Committee

Inquiry into the role and purpose of the Crown Office and Procurator Fiscal Service

Written submission from Aberdeen Bar Association

The ABA would wish at this early stage to raise and comment upon one issue that is of profound importance and significance in any investigation or inquiry regarding COPFS. It relates to the question discretion.

Procurator Fiscal Deputes should be given the trust, authority and support, to make decisions, based on their discretion, as lawyers. They should not be bound by Government policy or dictated to in terms of apparent universal policy or strategy regarding specific types of criminal conduct.

For a truly independent prosecution service, acting in the public interest, lawyers, whether trainee Deputes, propelled into Court from their second year and deemed qualified and experienced enough to conduct Sheriff Court matters, or relatively senior Deputes, should be able to make decisions of their own.

Specifically, they should be able to exert their judgment, in deciding what should and shouldn't be prosecuted, and where they can channel and focus the resources they have, rather than being dictated to by others, far removed from the reality of decision making at the coal-face; dealing with Courts, Sheriffs and Judges, witnesses, and defence lawyers. We in the Aberdeen Bar recognize the enormous stress Deputes in Court face, and we empathise when intelligent, and fair-thinking Procurator Fiscal Deputes are bound by what are often perceived to be political concepts and policies, which constrain the power of the PF to get on with the job in hand; that is to focus on ensuring justice is done.

Most importantly, PF Deputes should be allowed to be lawyers. Deputes should be given the freedom to assess and evaluate each case individually, and on its own merits.

Give PF Deputes the respect their title merits, by allowing them to act truly independently of other agencies, and have more discretion in what they can and cannot do, will allow them to become more effective and efficient in carrying out their core role.

The Aberdeen Bar Association has a strong, respectful and well-established working relationship with the COPFS in Aberdeen, and will always look for ways we can build upon that relationship based on mutual trust, and courtesy.

Aberdeen Bar Association
19 October 2016