



# FACULTY OF ADVOCATES

Response  
by the  
Faculty of Advocates  
to

## The Victims Rights (Scotland) Regulations 2015

1. The Draft Regulations appear broadly to meet the requirements of Directive 2012/29/EU and codify much of what is already performed by Police Scotland and COPFS. However we anticipate that much of the detail will appear in the “Victims’ Code”, which is yet to be produced.
2. We consider that the meaning of a “criminal investigation” in the Directive - using a purposive interpretation - is wider than set out in Regulation 9A which appears to be restricted to a “relevant interview”. What of: identification parades, searches and seizures of property, *locus* visits etc., which are part of an investigation? What of a precognition by the Crown prior to service of an Indictment, which is also arguably covered?
3. Whether the aim of the measures, as set out in the policy statement of “*clear, enforceable, rights... etc.*”, has been achieved, is perhaps debatable. There is to be a complaints process (Reg. 3A) if a victim apprehends that their rights have been breached. (Perhaps the complaints process ought also to be in respect of a prospective breach in order for the competent authority to remedy the matter at the earliest point). Unsurprisingly there does not appear to be a recognised mode of redress; and there is no independent body to which complaint may be made.
4. We consider that a “Victims’ Commissioner” might now be considered in order to: (a) coordinate the various rights and obligations across the competent authorities; (b) deal with complaints that have not been satisfactorily resolved; (c) to review the Code; and (d) enforce the Regulations. (We note that the Victims’ Commissioner (Scotland) Bill 2010, fell, but that such a body has been introduced in England and Wales and elsewhere).