

Edinburgh MP seeks to change the law and split the Lord Advocate's role in two

Edinburgh South West MP Joanna Cherry, KC, is to introduce a Private Member's Bill at Westminster this week to allow changes to be made to the role of the Lord Advocate.

Speaking on Good Morning Scotland Monday morning the MP, who is also an eminent member of the Faculty of Advocates, said: "The Lord Advocate performs two roles, one as head of Scotland's prosecution service and the other as Minister of The Scottish Government and its chief legal adviser.

"For many years politicians and legal scholars have felt there was a potential for conflict of interest inherent in the role and because of reservations under The Scotland Act it is not open to The Scottish Parliament to create a new law officer or a new public prosecutor – there would have to be devolution from Westminster to Holyrood to do that."

Ms Cherry has secured a 10 minute rule Bill in the House of Commons on Wednesday 10 January when she will propose that power to amend the role of Scotland's law officers be devolved to The Scottish Parliament. At present the Lord Advocate's role as head of the systems of criminal prosecution and investigation of deaths is protected from modification by section 29 of The Scotland Act.

The SNP 2021 Holyrood manifesto set out plans to consult on whether the dual functions of the Law Officers, as head of the independent prosecutions service and principal legal advisers to The Scottish Government should be separated. The Scottish Government has committed to review the role of the Lord Advocate by the end of the current parliament, the initial phase of which is to be informed by expert research.

A report is expected imminently. However, the Scottish Parliament lacks the powers to change the nature of the roles as this is reserved to Westminster and the Bill would transfer the necessary powers to The Scottish Parliament.

Ms Cherry said: "The role and function of Scotland's chief law officer is reserved to Westminster. The strait jacket of The Scotland Act has prevented The Scottish Parliament and The Scottish Government from modernising the post, as it might have done since 1999, by splitting the dual roles of providing independent legal advice to the Government of the day and that of head of the prosecution service in Scotland. This would avoid any conflict of interest whether real or perceived.

"All major political parties in Scotland have called for a review of the role of the Lord Advocate, there is widespread support for splitting the roles and I trust that my Bill will have cross party backing when it comes before the Commons."



Joanna Cherry KC, MP for Edinburgh South West