



Audrey Nicoll MSP
Convenor,
Criminal Justice Committee

Tel: 0300 020 3000
Text Relay prefix: 18001

By email: Diane.Barr@parliament.scot

Your ref:
Our ref:

Date: 11 January 2023

Dear Convenor

Safer Drugs Consumption Rooms

Many thanks for your letter dated 12 December 2022 in relation to the proposed safer drugs consumption room pilot.

It may be useful if I first confirm for the Criminal Justice, Health, Social Care and Sport, and the Social Justice and Social Security Committees what it is that the Lord Advocate has been asked to consider.

The Lord Advocate has been asked to consider whether she would issue a statement of prosecution policy in relation to the public interest in prosecuting individuals found in possession of a controlled drug within the proposed site.

As members of the Committees will understand, prosecution policy, is a matter for the Lord Advocate in her role as independent head of the systems of prosecutions and investigation of deaths.

It should be noted that the role of the Lord Advocate in this regard is limited to consideration of whether a statement of prosecution policy is appropriate. Wider considerations, including confirmation of the legality of any proposed approach, would go beyond the Lord Advocate's role as the independent head of the system of prosecutions and investigation of deaths

Similarly, any statement of prosecution policy should not be construed as "a ban" on prosecution of offences or as the Lord Advocate changing the law. Rather, in keeping with other statements, for example the Lord Advocate's statement on Naloxone distribution during the pandemic, it might represent a public articulation of the way that the public interest considerations (which are identified generally in the Scottish Prosecution Code) relevant to a prosecutorial decision in this specific context would be applied by prosecutors.

Any assessment of the public interest in this context requires consideration of a range of factors, as set out in the Scottish Prosecution Code and requires a clear understanding of what is being proposed more generally and how any facility might operate.

On 3 November 2021, the Lord Advocate provided evidence to the Criminal Justice Committee in which she noted that any proposal for a drug consumption facility, “would require to be precise, detailed and specific, underpinned by evidence and supported by those who would be responsible for policing such a facility, and by Police Scotland, and if there was careful consideration in and around how those consumption rooms would impact on communities.”

On 22 June 2022, an initial proposal in relation to a proposed facility was provided to COPFS. COPFS officials subsequently sought further information from the proposers, including in relation to the potential impact on the community.

As the committee will appreciate the pilot presents significant operational challenges in relation to policing any facility; no doubt made more difficult by the lack of a clear legal framework. Prosecutors continue to work closely with the police to ensure that there is clear plan for the policing approach to such a facility. There has been recent and ongoing correspondence with the Chief Constable of the Police Service of Scotland in relation to outstanding issues which require to be considered.

Briefing is being prepared by COPFS for the Lord Advocate in relation to both the request from Police Scotland and for a statement of prosecution policy. COPFS understand the significance of this proposal and are considering related issues as a priority. However, given the complexity of the issues, there is no specific timeframe which we can provide to the Committees at this stage.

I hope this is of assistance to the Committees.

Yours faithfully



John Logue
Crown Agent