



The Scottish Parliament
Pàrlamaid na h-Alba

Criminal Justice Committee

Angela Constance MSP
Cabinet Secretary for Justice and
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Maree Todd
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The Scottish Government

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By email

23 November, 2023

Dear Cabinet Secretary and Minister,

Policing mental health in Scotland

I am writing to you regarding an evidence session¹ that the Criminal Justice Committee held on Wednesday, 15 November, on policing and mental health.

The Committee took evidence on His Majesty's Inspectorate of Constabulary in Scotland's (HMICS) report on its [Thematic review of policing Mental Health in Scotland](#), and the Mental Welfare Commission for Scotland's report on [The role of police officers in mental health support](#).

The Committee would appreciate your views on the issues raised within both of these reports and their recommendations, as well as some of the helpful and innovative suggestions made during the evidence session on how to improve policing mental health in Scotland.

The HMICS report includes the following recommendation for the Scottish Government, that the:

“Scottish Government should commission a strategic review of the whole system relating to mental health, involving a range of scrutiny bodies”.

During their review, HMICS found strong evidence to support Lady Elish Angiolini's recommendation² for a wider, more strategic review of the whole-system approach to mental health. The HMICS report states that: “This was widely acknowledged and agreed by many of the partner agencies we engaged with during this review”.

¹ [Official Report](#), Criminal Justice Committee meeting, Wednesday, 15 November 2023.

² [Police complaints handling, investigations and misconduct issues: independent review](#).

Could you please confirm whether the Scottish Government accepts this recommendation and, if so, provide details of how it will be implemented?

In their report HMICS also recommends that:

“Police Scotland should, in conjunction with relevant partner organisations, review all Psychiatric Emergency Plans across Scotland and ensure that the police role in dealing with mental health is appropriate, supportive, patient-centred and aligned to Police Scotland’s mental health strategy, once established”.

Dr Arun Chopra told the Committee that the key issue is the need for a greater collaborative approach between relevant public sector organisations, including allocation of resources and joint training, to prevent some of the huge demand that is currently falling to the police service. One area for improvement is to develop how psychiatric emergency plans are used. Dr Chopra suggested that a care plan could be created for someone who has come through Police Scotland and has accessed healthcare through that mechanism. He explained that:

“On alignment, I was suggesting that the protocol that the police use for responding to emergencies and dealing with situations ought to be placed in the context of the psychiatric emergency plan, so that the health board and Police Scotland are singing from the same hymn sheet. Aligning that bit would make things work better”.

It would be helpful to know how the Scottish Government intends to assist relevant public sector organisations to work collaboratively to review all psychiatric emergency plans across Scotland, in order that they provide the appropriate procedural framework within which relevant partners can effectively respond.

Both reports highlight issues with the implementation of section 297 of the Mental Health (Care and Treatment) (Scotland) Act 2003. This section provides police officers with a legal power to detain a person found in a public place and suspected of having a mental disorder and convey them to a “place of safety” where they can be detained for up to 24 hours.

The HMICS report states that the most common place of safety, in practice, is a hospital accident and emergency department. However, HMICS found that, “arrangements available at present through legislation do not align with the services available from health professionals”. This means, in practice, that police officers are remaining with people for lengthy periods of time at hospitals while they await a medical diagnosis.

The HMICS report states that: “the Scottish Government is currently scoping what would be needed to provide alternative safe spaces, including good practice examples currently operating, or those that historically worked well”. It would be helpful if you could please provide the Committee with a progress update on this work.

The Committee has previously written to the Scottish Government about the evidence it received on the limitations of Section 297 of the 2003 Act and the negative implications for police officers and individuals. This has included individuals being arrested despite not committing any crime, due to police officers having no other

viable options to keep the person safe from harm, and officers not able to take them to a place of safety from a private place, such as their home.

I would appreciate it if you would please confirm whether the Scottish Government has plans to review how this legislation is working and, if so, provide details of what that would entail.

I have copied this letter to the Conveners of the Health, Social Care and Sport and the Social Justice and Social Security Committees, as the subject matter touches upon the remits of those parliamentary committees.

A response by Friday, 12 January 2024, would be much appreciated.

Best wishes,

Handwritten signature of Audrey Nicoll in black ink, consisting of the name 'Audrey N' followed by a stylized monogram.

Audrey Nicoll MSP
Convener, Criminal Justice Committee

Copied to: Clare Haughey, Convener, Health, Social Care and Sport Committee
Collette Stevenson, Convener, Social Justice and Social Security Committee