



The Scottish Parliament
Pàrlamaid na h-Alba

Criminal Justice Committee

Rt Hon Dorothy Bain KC
Lord Advocate of Scotland
Crown Office and Procurator Fiscal
Service

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29 September 2023

Dear Lord Advocate,

Cross-committee meeting on tackling drug deaths and drug harm

I am writing to you following the cross-committee meeting on tackling drug deaths and drug harm of 26 September 2023.

We would like to thank you for your recent correspondence clarifying that, in relation to the proposal for a pilot of a safer drug consumption facility in Glasgow, you would:

“... be prepared to publish a statement of prosecution policy to the effect that it would not be in the public interest to prosecute users of that facility in terms of section 5(2) of the Misuse of Drugs Act 1971 for simple possession offences committed within the confines of the facility”.

In your statement on diversion from prosecution in September 2021, you indicated that whilst the extension of the recorded police warning guidelines to include possession offences for Class A drugs is appropriate, police officers retain the ability to report appropriate cases to the Procurator Fiscal. You also indicated that:

“Any alternative to prosecution: warnings, fines or diversion, are offers only. An accused person always has the right to reject such an offer and there will be cases where prosecution is the appropriate response in the public interest”.

It would be appreciated if you could please clarify whether police officers and prosecutors retain these abilities in relation to users of the safer drug consumption facility in Glasgow.

I look forward to your response.

Best wishes,

A handwritten signature in black ink that reads "Audrey N: CN". The signature is written in a cursive, flowing style.

Audrey Nicoll MSP
Convener, Criminal Justice Committee