OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 4 June 2025

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 4 June 2025

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CRIMINAL JUSTICE COMMITTEE
18th Meeting 2025, Session 6

CONVENER

Audrey Nicoll (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Liam Kerr (North East Scotland) (Con)

COMMITTEE MEMBERS

*Katy Clark (West Scotland) (Lab)
*Sharon Dowey (South Scotland) (Con)
Fulton MacGregor (Coatbridge and Chryston) (SNP)
*Rona Mackay (Strathkelvin and Bearsden) (SNP)
*Ben Macpherson (Edinburgh Northern and Leith) (SNP)
*Pauline McNeill (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Angela Constance (Cabinet Secretary for Justice and Home Affairs)
Professor Susanna Galea-Singer (NHS Fife)
Michael Matheson (Falkirk West) (SNP)
Tracey McFall (Scottish Recovery Consortium)
Gemma Muir (Sustainable Interventions Supporting Change Outside)
Kevin Neary (Aid & Abet)
Dr Sarah Rogers (Families Outside)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 4 June 2025

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Deputy Convener (Liam Kerr): Good morning, and welcome to the 18th meeting in 2025 of the Criminal Justice Committee. We have received apologies from Audrey Nicoll and Fulton MacGregor. Michael Matheson will attend remotely for the second item of business.

Our first item of business is a decision on whether to take in private items 5 and 6. Item 5 is our review of today's evidence and item 6 is consideration of our approach to two members' bills. Do members agree to take those items in private?

Members *indicated agreement.*

Subordinate Legislation

Restitution Fund (Scotland) Order 2025 [Draft]

10:06

The Deputy Convener: Our second item of business is an evidence session on an affirmative instrument, the Restitution Fund (Scotland) Order 2025. We are joined by the Cabinet Secretary for Justice and Home Affairs. I also welcome her Scottish Government officials, Avril Davidson, from the police division, and Ruth Swanson, solicitor.

I refer members to paper 1. I intend to allow around 10 minutes for the evidence session.

I invite the cabinet secretary to make some opening remarks on the Scottish statutory instrument.

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): Good morning, colleagues. The order revokes and replaces the original Restitution Fund (Scotland) Order 2021. Its purpose is to remove the Scottish Police Benevolent Fund as the operator of the restitution fund and to make provision for Scottish ministers to operate the fund.

The order maintains provision for the administration of the fund, including making payments from the fund. The fund will be used to support services for police officers and police staff—or any person assisting them in the course of their duties—who have been victims of assault.

Restitution orders are imposed by the courts in a similar way to fines. The money that is received from the restitution orders is paid into the restitution fund, which is ring fenced for the purposes that are set out in the legislation. Police officers and police staff who are the victims of assault can currently access support services through police treatment centres or Police Scotland's workplace provision of occupational health and employee assistance, for example, but the restitution fund makes available additional funds for valuable support services and it is also available to any person assisting the police in support of their duties who is the victim of assault. We anticipate that the most likely victims of assault—under section 90(1) of the Police and Fire Reform (Scotland) Act 2012—will be police officers and custody officers.

Support services can be any type of service or treatment that is intended to benefit the physical and mental health or wellbeing of the victim. There is no limit to the type of treatment or support that will be considered, and it could extend to the purchase of, for example, specialist equipment, to

the funding of adjustments, where appropriate, or to the provision of support services in a different location or setting.

The main limitation of the fund is that it cannot be used to provide a direct payment to victims.

Having ministers operate the fund does not introduce any barriers to the way in which the restitution fund will be operated, and the revised equality impact assessment concludes that the provision of the order does not discriminate in any significant way and that access to support from the fund will not be impacted by any protected characteristic.

No one should face abuse or violence while at work, and the restitution order sends a clear message that, if you assault our police officers or police staff, you will pay for your actions.

Thank you, convener. I am happy to take any questions.

The Deputy Convener: Up front, I will ask a straight question. The order came into force on 10 February 2021. In June 2021, the Scottish Police Benevolent Fund withdrew from administering the restitution fund. In August 2021, a letter from the cabinet secretary said that no money would be paid out and that the restitution fund would not operate unless and until there was an alternative operator for it. Fast forward to today—4 June 2025—and only now do we have legislation that puts in place an alternative that will allow everything to start moving. Why on earth have we had a four-year delay?

Angela Constance: Convener, you are quite correct to say that there is a history to that. You correctly referred to the fact that my predecessor, the Cabinet Secretary for Justice and Veterans, wrote to the committee in August 2021 to confirm that the Scottish Police Benevolent Fund had withdrawn and no longer wanted to operate the fund. Thereafter, there were extensive discussions with the Scottish Police Federation, and they looked positive until about the start of last year.

I wanted to see the fund in operation, so I made the decision last year that, in the absence of either the Scottish Police Benevolent Fund or the Scottish Police Federation being prepared to operate the restitution fund, it should fall to Scottish ministers.

Restitution orders are currently available to the courts, but it is fair to say that, when the fund is operational, it will give us additional opportunities not only to appropriately raise awareness of the contribution that restitution orders can make to vital support, but to support their use by our independent courts.

The Deputy Convener: There has been a considerable delay of four years. Has the Scottish Government got any data on whether any individuals have lost out as a result of the four-year delay and, simply for administrative reasons, have not got what they should have been entitled to?

Angela Constance: The funds still rest in a ring-fenced account. There is data available: the courts have imposed 103 restitution orders. I will be frank, convener, and say that, although that is a matter for the independent courts, I have asked my officials to engage appropriately with the Scottish Courts and Tribunals Service after the successful—I hope—passing of this statutory instrument. We will proceed with the establishment of the guidance and the application process and get the fund up and running for applications by April next year.

I am keen to make people aware of the benefits of restitution orders and to support their use in a way that is appropriate to my role and does not stretch into interfering with the independence of the courts in any way. However, I want to boost the funds that can go into the restitution fund so that they can be used appropriately.

The Deputy Convener: Thank you. We will move to questions from colleagues.

Pauline McNeill (Glasgow) (Lab): As you said, cabinet secretary, whether to impose restitution orders is a matter for the courts to decide. We have heard that there have been 103 such orders and that in a given case the court can impose either a fine or a restitution order. From what I have read, it seems that the amount of any restitution order should be broadly the same as that of any fine that the court might have imposed. Does that mean that the courts have complete freedom to decide which of those options they want to apply? Is there guidance on when a restitution order should be used, or are there any criteria for that?

10:15

Angela Constance: It is a matter for the courts, as you would expect. My understanding is that the courts can make a restitution order separately or along with other orders—so, for example, they could impose both a fine and a restitution order.

The great benefit of restitution orders is that they support not only police officers and police staff who themselves have been assaulted in the course of their duties but other people, such as other emergency workers, or civilians, who have been assaulted when they have assisted them in the course of those duties. The restitution orders bring something additional to what is currently available to the courts.

Pauline McNeill: I had not appreciated that a restitution order could be imposed as well as a fine. I have not looked recently at the repayment figures for fines. I know that, in the past, there have been problems with collecting fines—I do not know whether that is still the case. I would think that someone's ability to pay might be a consideration. If a court imposes a fine and is thinking about making a restitution order, presumably it would use some kind of self-imposed criteria to decide whether the offender could afford that, otherwise we would not get the return on it.

Angela Constance: As with any financial penalty, payment can be made in instalments. There is an obligation on the court to consider the offender's means and whether they would be able to afford to make such payments.

Pauline McNeill: Is that possibly why there have been only 103 restitution orders?

Angela Constance: To be honest, I think that we will be in a stronger position to encourage the use of restitution orders once the fund is up and running and there are people in place to administer it. I am keen to understand the data further, and I will certainly ask my officials in justice analytical services to liaise with the Crown Office, for example, on further data.

As I said earlier, I am keen for my officials to engage appropriately with the Scottish Courts and Tribunals Service to raise awareness of restitution orders and remind people of their existence. Such orders have been around for some time, and they have been used. I want to encourage their continued and expanded use, given the benefits.

Until now, funds recouped through restitution orders have not been administered to any charities for the benefit of victims of assault. That has not happened. The purpose of the instrument that we are considering today is to get that fund established, get the guidance in place and get the fund operational by next year.

Sharon Dowey (South Scotland) (Con): I will continue Pauline McNeill's line of questioning. Can you explain the restitution fund a wee bit more? The court can impose fines that are paid directly to the victim. Is the restitution fund in addition to that? If the court imposed a fine it would be paid directly to the victim, who would be a police officer, but the restitution fund is not in addition to that.

Angela Constance: No. It is important to note for the record that, in general, fines are not paid directly to victims. The fine income, in the first instance, rests with the Scottish Courts and Tribunals Service as part of its income inflows throughout the year.

I will clarify with the committee what happens with compensation orders, which are a different form of financial penalty. However, any funds from restitution orders that are imposed by the courts go into the restitution fund—they do not go directly to victims. Organisations that support police, police staff and others can apply to the fund that is available, to enable them to support victims.

Sharon Dowey: So, a victim would get paid from a compensation order.

Angela Constance: I will clarify that.

Sharon Dowey: Right—you will come back to that.

Angela Constance: For the purposes of today, I have not looked in close detail at how compensation orders currently work. I know that, because fines are financial penalties, the income from those does not go to victims.

Sharon Dowey: My question was whether the restitution order replaces compensation orders.

Angela Constance: No.

Sharon Dowey: So, would the police not get a compensation order, as the victim?

Angela Constance: As I said to Ms McNeill, the court has various options in front of it—a custodial sentence, a community payback order, a financial penalty by way of a fine, a compensation order or a restitution order. The court can apply one or all of those options, or a combination of them, as it sees fit.

Sharon Dowey: Would the police still be entitled to a compensation order?

Angela Constance: Victims, who could include police officers, would be entitled.

Sharon Dowey: The police, as a victim.

Angela Constance: The court can use a fine, a compensation order, a restitution order or a community or custodial sentence with respect to any case as it sees fit, whether that involves a member of the public, a police officer or an emergency services staff member.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning. I am wondering about the measure's impact on the SCTS's workload. I am thinking that it will not be huge, but is that being thought about?

Angela Constance: We always think about those things. I can confidently say that that is not a concern, because the Scottish Courts and Tribunals Service already has to administer financial penalties, such as fines imposed and compensation orders.

Rona Mackay: Is there a timescale for when the measure could be fully operational?

Angela Constance: We are aiming for April next year.

The Deputy Convener: Would you like to come in, Katy?

Katy Clark (West Scotland) (Lab): I do not have any questions—thank you.

The Deputy Convener: I have a final question, cabinet secretary. If the motion recommending approval of the draft order is agreed to today, only then, as I understand it, will the fund open up for applications—or the consideration of how it will open up for applications, and of the criteria for those applications, will start. Assuming that the motion is agreed to today, only at that point—four years after the measure was originally put in place—will we start considering the criteria for applications. That begs the question: why was that not done over the past four years? Perhaps more importantly, when will that consideration conclude?

Angela Constance: The end point that we are working towards is that it should be possible to make applications to the fund from next April. To be candid, convener, I appreciate your frustration in that regard. I should say that there was a working group that involved Police Scotland, police staff associations, trade unions and charities such as the police treatment centres. There was certainly broad consensus there, and consideration was given to the view that we would want any bureaucracy to be proportionate. We do not want to create too many hoops or hurdles, although, obviously, the financial governance aspect would need to be safeguarded.

Should the motion be agreed to, we would proceed with development of the guidance, on which we would need to consult, and we would also consider our work on the application process. To be clear, I have already seen an outline of the application process, which would take us from the court imposing a restitution order on an offender right through to the distribution of funds and the victim receiving the relevant support.

The Deputy Convener: I am grateful. Do colleagues have any further questions?

Pauline McNeill: Cabinet secretary, I just want to check that I have understood what you said about what the courts can do. I agree that there should be more encouragement to use the orders, but the Scottish Government policy note says:

"We anticipate that in a given situation the level of financial penalty imposed by the courts is likely to be the same regardless of whether it is a restitution order or another financial penalty such as a fine. The financial impact on the offender and their family, and any resulting impacts, are therefore anticipated to be unchanged as a result of the implementation of restitution orders."

My reading of that is that, if a court were considering applying a restitution order, that would not necessarily be in addition to a fine, so that would not be a barrier. However, I thought that you said that it can impose both. Did you mean that if it does impose both, the financial penalty should not be higher than it would have been had the court applied only a fine?

Angela Constance: My officials can correct me if I am wrong, but I think that it is the Criminal Procedure (Scotland) Act 1995 that sets out the procedures for financial penalties and the level of payment. The maximum level for a restitution order is £10,000, as is the maximum level for a fine. That is an established procedure for the courts.

It is also my understanding that the courts have the option of imposing a fine, a restitution order or another penalty and, if they wish, they can use a combination of penalties. I do not have the figures in front of me, but courts sometimes impose fines plus compensation orders. I do not know how common that is, but it is my understanding that the courts can use a combination of disposals.

Pauline McNeill: It could be a mix.

Angela Constance: It could be.

Pauline McNeill: If I understand our papers correctly, the anticipated result of the order should be such that the financial impact on the offender would not be greater than it would have been, albeit that a mix is being used. I will just read from the policy note again:

"The financial impact on the offender and their family, and any resulting impacts, are therefore anticipated to be unchanged".

Does that mean that, even though the courts could impose a fine and a restitution order or a compensation order, there are not three separate figures? In other words, there is potential for the overall amount to be three times as much as it would have been if only a fine been imposed. If that is right, are you saying that the overall amount of the three figures should not be higher? If the courts could do that, and the overall cost to the offender would be higher, that would impact on the ability to collect the fine.

Angela Constance: Under the legislation, the courts are under an obligation to consider an offender's financial means and their ability to pay. As I understand your question—

Pauline McNeill: The policy note says that the financial impacts are

"anticipated to be unchanged as a result of the implementation of restitution orders."

Angela Constance: The restitution order gives courts an additional option. They are under an obligation to consider the impact on the offender and their ability to pay. We are not changing how any of that operates, and such orders already exist. Where the court imposes a combination of compensation orders, fines and restitution orders, a hierarchy of payments is applied. When offenders do not have the means to pay the total amount, priority is given to payment of compensation orders and, thereafter, restitution orders. I hope that that helps.

The Deputy Convener: Our next item of business is consideration of the motion to recommend approval of the draft affirmative SSI on which we have just taken oral evidence. As this is a debate on a motion, only MSPs may speak—officials may not.

I invite the cabinet secretary to move motion S6M-17003 in her name and to make any brief additional comments that she may wish to make.

Angela Constance: I have nothing further to add, convener.

Motion moved,

That the Criminal Justice Committee recommends that the Restitution Fund (Scotland) Order 2025 [draft] be approved.—[*Angela Constance*]

Motion agreed to.

The Deputy Convener: Are members content to delegate responsibility to me and the clerks to approve a short factual report to the Parliament on the affirmative instrument?

Members *indicated agreement.*

The Deputy Convener: The report will be published shortly.

There will now be a brief suspension to allow for a changeover of witnesses. I thank the cabinet secretary and her officials for participating.

10:30

Meeting suspended.

10:32

On resuming—

Substance Misuse in Prisons

The Deputy Convener: Our next item of business is to continue our inquiry into the harm that is caused by substance misuse in Scottish prisons. Today's session will give us the opportunity to take evidence from a panel of witnesses with experience of supporting people in prison and their families. It is a preparatory session to help to shape our understanding of the key issues and inform the rest of our evidence taking.

I am pleased to welcome Kevin Neary, co-founder and co-ordinator, Aid & Abet; Dr Sarah Rogers, senior policy and public affairs officer, Families Outside; Professor Susanna Galea-Singer, clinical lead and consultant psychiatrist, NHS Fife addiction services; Gemma Muir, senior manager, Sustainable Interventions Supporting Change Outside; and Tracey McFall, chief executive officer, Scottish Recovery Consortium. I refer members to papers 2 and 3, and I thank the witnesses who provided written submissions in advance. I intend to allow up to two hours for the session.

I will commence with a pretty open question, which I will give each of you the opportunity to respond to. I will start with Kevin Neary. What are the impacts of people using substances in prison on those who are using the substances and/or their families and other prisoners?

Kevin Neary (Aid & Abet): Thank you for having us along. The impact could be mental or physical and could affect health and wellbeing. Substances that are in prison have different levels of strength, so there is a high risk to the individual who is using them.

Drugs need to be paid for, so there is a financial element, which can have an impact on families. Families may have to cover bills and costs.

As a psychological point, there are families who have a loved one who is in prison with mental health and substance use issues, and there is uncertainty as to whether they are going to get a phone call to say that something has happened, which causes anxiety.

There is a big impact from the use of substances, whether it is mental, physical or emotional.

Dr Sarah Rogers (Families Outside): We are really pleased that the inquiry is recognising from the outset that the harms that are caused by substance use in prisons extend beyond the prison walls and to families. The experiences of

families are often overlooked, so it is encouraging to see that aspect built in from the start.

Imprisonment in and of itself has significant impacts on families. I will not go into huge detail about that just now, but there is a range of challenges relating to the financial impact, housing, the physical and mental health impacts for families and stigma.

For children, we know that the imprisonment of a household member is an adverse childhood experience that is associated with a fivefold increase in exposure to other ACEs. Having somebody in the household who uses substances is another ACE, so there are two ACEs from the outset.

When somebody who is using substances is imprisoned, the impacts can be compounded, but there can be additional impacts that are specific to the substance use. We see that there can be significant impacts in relation to contact—specifically from visiting the person in prison. A lot of research shows the importance of maintaining meaningful contact between families and people in prison. It can support the health and wellbeing of everyone involved, and it can support desistance from offending.

We see commitments to family contact across Scottish Government policy and Scottish Prison Service policy, so it is clear that everybody recognises its importance. However, we hear quite regularly from families about visits being cancelled. In effect, that is happening as a punishment for substance use in prison. It has been SPS policy for a number of years that loss of visits should not be used as a punishment unless visits were being used to commit an offence. However, in practice, some prisons have started to revert to that sort of punitive approach.

We have heard of a number of recent examples in which families have turned up to establishments, often with young children, and have been told when they are in the waiting room that the visit has been cancelled. No explanation is given, and they have to wait to hear from the person in prison, who then lets the family know that the visit was cancelled because they had been found to have taken substances or to have had those in their possession. Families, and children in particular, obviously find that very upsetting. There are significant implications, because they have often travelled for some distance and have paid money, and they are given no notice.

We see another key impact in relation to children's visits. We hear quite regularly that children's visits are being cancelled and that the privilege of children's visits is being removed as a punishment when the individual who is in custody has been found to have used, or to have possession of, substances. That cancellation is obviously very upsetting for the person in prison and for the children. Those children are, in effect, being punished for something that they have not done, and that is hugely distressing for them.

On children's visits, it is important to consider that the United Nations Convention on the Rights of the Child has now been incorporated, so children have a right to maintain contact with the parent in prison, and criminal justice agencies, including the SPS, need to consider children's rights when they make decisions. We are finding quite often that a decision to remove visits has been taken with no consideration being given as to what impact that has on the child and on their right to maintain contact.

Another impact on families concerns the visiting processes. Families tell us that they feel that there is a security theatre approach to substance misuse in prison. They feel that there is a strong assumption among prison staff that families are one of the main ways in which drugs are coming into prison. They feel that there is an assumption during their visit that they are doing, or going to do, something wrong.

One family member spoke to us recently about having been searched prior to the visit but then being told that they could not hold their partner's hand because of security restrictions. Families are telling us that the way in which they are being treated and communicated with makes them feel as if they are guilty of doing, or trying to do, something wrong. They are questioning with us the extent to which the assumption that drugs are coming in via families is actually backed up by evidence. All of that makes visiting very stressful for families.

I will highlight a couple of other key impacts, which Kevin Neary touched on. One is the stress and worry that is caused to family members. Having a family member in prison is stressful anyway, and concern for the person who is in prison is one of the top reasons why families come to us for support. When there are substance use issues, that stress is exacerbated. Families have spoken about the stress that they experience when they suspect that their family member might have taken something but they cannot really tell from a telephone call. They are then left with the worry and the constant suspicion. They have said that that can have a real impact, and can take a toll, on their relationship with that family member.

Another impact—again, Kevin Neary touched on this—is financial. Families have said that they can feel coerced—and can, in some situations, be blackmailed—into sending money to the account of the person in prison or to unknown bank accounts. They tell us that they are hugely worried

about whether, when they send that money, it is being used to pay for drugs, but they also feel that they are unable to stop paying that money.

Another issue relating to finances is that we have seen an increase in families whom we support being told that property that they have handed in or have had posted in directly, sometimes from online retailers, has contained traces of drugs. Those items are not being passed on, but families are not being given any communication about that. They are being left out of pocket and worrying about potential legal implications. They report that there is then no legal follow-up and that the items are never seen again.

There is one final financial impact. During the Covid pandemic, prison policy meant that items could not be handed in, so families had to post items in, at huge cost. After Covid, prisons went back to allowing items to be handed in. However, when there is something going on in the prison—for example, if it is experiencing an increase in particular drugs coming in—it will go back to the policy of posting things in, without any recognition of the financial impact that that has on families. Often, families are not told the rationale for any of those decisions.

Those are, more or less, the key impacts on families.

Professor Susanna Galea-Singer (NHS Fife): I thank the committee for having us here. I consider the question of impact in three different phases. First, there is the immediate impact when the individual goes into prison; secondly, there is an impact during the course of imprisonment; and, thirdly, there is an impact during the period of release. We know that substance use, whether it is in prison or outside prison in the community, has a ripple effect not only on immediate significant others but on wider society.

When the prisoner first goes into prison, they are going into a bit of an unknown situation, so fears will come to mind—"Am I going to get the treatment that I've been having in the community? Am I going to be treated in the same way? Will I be withdrawing?" There are a number of prisons across Scotland, and we know that they do not all function in a similar way. Someone might go to one prison and find it okay to get the treatment that they were having in the community, but they might go to another prison and find that there is a bit of a delay for them to get that treatment. There is that fear, and the unknown factor, there.

Looking at that, we can consider that the majority—perhaps not all—of the people who use drugs have been subject to a lot of trauma. If they have also committed a crime, it is more likely that they have been subjected to trauma; all the studies tell us that. We know that they have post-traumatic stress disorder, which is going to affect the immediate impact that they experience as they go into prison.

10:45

There could be medical emergencies, too. There is the management of offender at risk due to any substance—MORS—approach for people with substance abuse problems, whereby prison officers can monitor and support individuals who come into prison with substance use problems. That could mean that those individuals are withdrawing because they have a significant problem with alcohol, that they might have a seizure because of the potency of the drugs that are out there or that they could be hallucinating. There could be a number of clinical and medical issues at the point of admission to prison. Although there is a system in place, is it effective enough if we have to, for example, transfer people from prisons to hospitals due to medical emergencies? That is the immediate impact of substance use.

On the impact of substance use during the course of imprisonment, there are a number of recovery-based initiatives, but the question is whether there are enough of them. From talking to different people who work in different prisons, I know that there are not enough of them. Are we actually providing a good recovery culture in the prison environment? When you talk to prisoners, they often say that they have been subjected to bullying and pressure to be part of gang-like cultures regarding the use of substances. They are told that, if they do not use substances, they will suffer or their families will suffer. There is an issue with the culture in prison environments that people are subjected to, which we cannot ignore.

We know that even those who had not been using substances prior to going into prison are likely to start using them while in prison. There are many reasons for that, which I will not go into now, but one relates to the lengthy lock-up times for prisoners.

Another aspect is the impact at the time of release. It is brilliant that the national early release programme has been implemented. However, it poses problems, as prisoners are sometimes not sure whether they will be released, so there is not enough time to make arrangements with community services to ensure that there is a seamless transition from prison treatment to community treatment. A lot of improvements have been made, but there are still problems.

The impact on families has been mentioned, so all that I will say is that, sometimes, it is not just about worry and pain; there is also relief and guilt, because families are burned out. We need to

support those families at the different stages—at the beginning, in the course of imprisonment and at the end. There are also worries about, for example, an imprisoned son who was abusing his mother and will be released—there will be fear at the point of release. We need to support families. I understand that there is a new service—I think that it is called Upside—to support families throughout the course of imprisonment.

Children were mentioned, so I will not mention them again. However, I will mention something about the impact on prison staff—not just prison officers but national health service staff who work in prisons. We have heard about having orders and things like that in place. However, there is an increase in the number of prisoners, which means increased workloads, increased stress and potential burnouts. Although there has been an increase in prisoner numbers and an increase in capacity for prison officers, there has not been any increased capacity for NHS staff who work in prisons, so they are being stretched even more when trying to provide treatment to a larger number of people.

Staff end up being subjected to coercion and corruption, and intimidation concerns come into play. I recommend training for prison officers to equip them with knowledge of how to handle such situations, which would improve their satisfaction at work and result in fewer issues with burnout.

On the impact on other prisoners, I mentioned peer pressure and the environment. Some of our prisons are quite old spaces, if I can put it that way, and they do not allow a recovery focus to be properly implemented. We need to consider the environment, too. I know that there has been a lot of work around ligature safety, but the issues go beyond that. It is not just about ligature safety, which is almost like a reactive approach; we want to think proactively about how we make prison a more positive recovery environment. After all, we need people to come out of there able to integrate into the community and not feeling even more stigmatised.

Gemma Muir (Sustainable Interventions Supporting Change Outside): Thank you for having us, deputy convener. The impact that substances have on any individual can affect both their short-term and long-term cognitive functioning, with memory impairment, emotional instability and difficulties with executive functioning. Substance misuse has a huge impact not only on the person's mental health but on their physical health. Is there enough support from the NHS, given that it has a physical impact and a mental impact?

There is also the issue of isolation from families. When people are using drugs, they completely withdraw from their families, and that has a massive impact not only on the individual but on the family outside, causing stress and financial difficulties, which we have already spoken about. To buy substances, people need money, and that puts exceptional pressure on the families outside, who are having to pay for the individual inside.

Tracey McFall (Scottish Recovery Consortium): Thank you for the invite to come to the committee. My role here today is to ensure that the SRC gets across the impact on people in recovery. We have spoken to a range of people across Scotland: recovery communities, people with lived experience, people who are currently in prison and people who have recently been in prison. We have also spoken to a range of leaders across the country who are managing small grass-roots organisations that are in prison right now. We have a job to ensure that the committee understands the massive impact of substance misuse, individually and in society.

I will not touch on a lot of what my colleagues have already said, but the impact on individuals keeps people entrenched in substance misuse behaviour and in offending behaviour. There is a risk of harm in life, and there is an impact on mental health. We will probably touch on drug deaths in prison. We know from speaking to people that substance misuse creates mistrust in the system. When someone is put in prison, there is an expectation that there will be care and support there, but people do not feel that in prison right now, judging from the people we spoke to. It is important for the committee to hear that.

I will not touch on the subject of families, as Sarah Rogers and other colleagues have touched on that a lot.

There is a broader issue for the SRC. A few needs assessments were carried out in 2022 in relation to work on substance misuse and physical health in prison. It was very clear that substance misuse in prison should not be divorced from political and community policies. Although we talk about drug use in prison, it is important to understand the impact that it has on communities and on the wider system. It is a matter of considering it in a wider political or policy landscape, and thinking in terms of the "hard edges"—drugs, mental health, addiction, homelessness and domestic violence.

I urge the committee to consider the issue as widely as possible. It cannot be viewed in isolation. In relation to society and communities, we are talking about the most marginalised, vulnerable groups—before people even touch prison. People who come from deprived areas are 15 times more likely to use drugs. That is a massive increase in relation to whether those people will touch the justice system. There is a massive impact on communities.

Ms Dowey, I think that you mentioned the impact on victims of crime at the committee last week. The people we are supporting in prison will go back to their communities, and that crime will potentially continue if we do not consider the intervention points across the system and try to intervene.

That, broadly, is why we are here today. I hope that I have framed some of the impacts, not just on individuals but in a broader sense.

The Deputy Convener: I am very grateful—that is extremely helpful to start us off. Dr Rogers, you talked persuasively about what happens when families are visiting and there is an issue that means that contact is not allowed or children are not allowed to interact properly with the prisoner. On the flip side, presumably, the SPS has to be ultra-cautious in order to prevent substances getting into prison in the first place. Do you have any thoughts on how the balance can be struck such that there is not the negative impact that you persuasively outlined but that, at the same time, the SPS can do its job to the best of its ability?

Dr Rogers: Yes, absolutely. There are obviously situations in which a visit is cancelled at the last minute because somebody is believed to be under the influence of a substance. That is understandable; in those circumstances, no one would expect them to be involved in a visit. When a visit is cancelled because somebody has been found in possession of drugs in prison, the cancellation is being used as a punishment. At that point, the individual does not present a risk, so there is no justification for cancelling a visit, other than that it is being used as a punishment.

With regard to the processes for people who are coming into prison for a visit, we and families understand that there must be very strict security measures. However, families talk about feeling as though they are under suspicion. They feel that the processes in place are often not explained to them. If it was explained—"This is what is going to happen and this is the rationale for it"—it would often make things a bit more comfortable and a bit easier for families.

Families feel a lot of stigma when they are visiting. There is stigma simply as a result of having a family member who is in prison, which is compounded if there is substance use, so there is dual stigma. This is by no means consistent across the board, but families tell us that they often feel that they are treated quite poorly in their interactions with prison staff and that they feel stigmatised. There is not a quick fix, because it is a cultural issue, but something could be done to train staff on how families are treated and spoken to so that we can explain processes to them and try to make the situation as comfortable as possible for them, without the need to negate any of the processes that absolutely have to be in place.

The Deputy Convener: That is very helpful.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): I thank all the witnesses for their time and participation. You have all made really interesting opening remarks, and I want to build on some of those points, particularly what you said at the end of your remarks, Tracey McFall. One of the issues that the committee is probing is the reasons why people use substances in prison. I appreciate that that is a broad question, but do you want to say more about the reasons and contributing factors that are beyond the prison walls, so to speak, as well as within the institution? It would be good to hear your thoughts on those matters.

Tracey McFall: Trauma is not left at the prison gates, so trauma will follow an individual and their family into prison. I want to make that really clear. There are a number of other reasons why people use substances in prison, which we know from research and the needs assessments that have been done over the past few years. This is about the break of moving from a community into prison; it is about the disconnection from family; it is about trauma; it is about the environment; and it is about being behind a cell wall for 23 hours of the day. As we know from the people we speak to, people have no hope when they are put in prison and do not see a future—it is a sad indictment of Scotland today that people would prefer to go into prison than to stay in the community, which is an issue that was raised in last week's committee meeting, too. There is not just one reason. People bring a range of different issues into prison, and all those reasons can be seen in combination.

11:00

We know from some of the people we spoke to that using drugs is a way to cope. People feel that it helps them with the psychological pressures that they are put under, with emotional regulation and with making sense of the situation that they are in. There is not an easy fix; it is a very complex issue. Bullying and intimidation are also factors. Society and the committee need to look at the intervention points in prison so that we can support people to start that journey or to at least create a space in which they can have some time to ask, "What's next for me?"

I will stop there so that other people can come in. It is a very complex issue, but the big thing for me is that trauma does not stop at the gate. Trauma will follow someone into prison and, unless that is addressed in prison and as they come out of prison, we will still be in this position in a number of years.

Ben Macpherson: Of course, in most cases, that is applicable to people who have had challenges with addiction before going into prison—

Tracey McFall: The same applies to people who had issues with their mental health before they went into prison—

Ben Macpherson: —and people who go into prison without a history of addiction but who are influenced by the environment.

Tracey McFall: The committee will probably touch on this, but the research that I have looked at in preparation for the meeting is that the same applies in relation to the people who have not previously used drugs who start to use them in prison.

Kevin Neary: As Tracey McFall said, we must remember that addiction is a behaviour—an extreme behaviour. Anything that is done in an extreme way is an addiction. There are many other addictions, and people's solution to those can be substance use. There might be other behaviours that help people—coping strategies, which is what Tracey mentioned. However, when people come fae the community intae prison settings and they already have a drug issue when they go in, getting access tae a substance and using it becomes a survival issue. There is a lot of pressure on people who are trying to survive in that environment. There is also the point that, even if the person didnae want tae use, they have no got a choice because it is being used in the hall beside them. Sometimes, people who do not use substances go intae prison and start using substances. We are aw creatures ae habit, and people see other people's coping strategies and they think, "I will just start doing that."

People who suffer fae addiction often come fae a really difficult background. No everybody who experiences childhood trauma or adversity ends up in the criminal justice system or using substances, but I can guarantee you that all those in prison with substance use have experienced childhood adversity and trauma, which, as Tracey said, is untreated—it will always have been untreated. There are drugs aroond aboot stimulants as well. A lot of people are now using stimulants because of undiagnosed attention deficit hyperactivity disorder, and that has an opposite effect on them. That is no looked at either; it is no being considered. Methadone is provided as a substitute for opiate use in prisons, but they do not have a substitute for stimulants. Actually, in other countries, they use Ritalin for those who are affected by ADHD. There is a lot of that going on in prisons.

It is one thing to have access tae recovery and recovery networks in prison, but the other issue is finding that pathway ootside prison. On average, it takes three years to transition to a new home when you move house, and we expect people to do that in 24 hours when they are coming fae a prison environment into a community environment. That creates a high risk of relapse and overdose and, sometimes, premature death.

Ben Macpherson: My colleagues will come in with questions on considerations outside prison, which are, of course, vital. I want to pick up some of those really helpful contributions. Is the very serious challenge of overcrowding that we face a contributing factor to all this?

Professor Galea-Singer: Yes, I think that it is. When there is overcrowding, people do not have personal space for enough time to think about what they are going through. You have heard quite a lot about trauma. Often, if there is overcrowding and poverty-like situations and if someone is being subjected to bullying, they will be retraumatised. Retraumatisation is happening all the time.

It is not just about overcrowding. There has been a reduction in working hours for SPS staff, and rightly so, but that has meant that lock-up time for prisoners has increased. That, together with the overcrowding, affects people. They get bored and they do not have enough activities, so they think more about their self-worth. They have been traumatised and they think that they are not worthy of anything—they feel like a failure, and they want to use more drugs just to numb themselves. There is a significant impact from overcrowding.

Gemma Muir: I will come in on that, too. Overcrowding has a significant impact on an individual, and when we are looking at addiction, we have to cater to the individual's needs. That involves being trauma responsive and looking at the person, and at their pain instead of their addiction. If there is overcrowding, how can we possibly cater to every single individual's needs? Those needs are not being met.

Individuals use drugs to cope—to escape reality and to pass the time, because of boredom. Are there enough recovery initiatives, and are they getting enough free time? What exactly is there in place for all those individuals who are in prison right now? There is not enough to cater to them and to help them with their mental health, physical health and addiction. It is complex.

Ben Macpherson: Thank you, all. Sorry—I see that Dr Rogers wants to come in.

Dr Rogers: I wanted to say something from the families' perspective. As I said at the outset, we know that meaningful contact is important for the wellbeing of people in prison and their families. A high prison population has an impact on the time that is available for staff to support that contact, including children's visits; to provide opportunities

for families to be involved in the care that their loved ones are receiving; and to provide information for families. Staff are simply so stretched that they do not have the time to focus on those issues. If they could do so, we would see benefits all round.

Ben Macpherson: Thank you.

Sharon Dowey: You have touched on this in your submissions and in some of your previous responses. Is the level of provision of programmes and support for those who wish to address or manage their substance use in prison adequate for the number of people who wish to access those services? Is it available for all groups in prisons, including protection prisoners and those in segregation?

In particular, what help is available for someone who is on remand, as opposed to somebody who has been sentenced? As that was mentioned in the SRC's submission, perhaps Tracey McFall can start.

Tracey McFall: There is a lot to say on that. The people we have spoken to about access to programmes and support tell us clearly, "No, there is not enough available." They would like more out-of-cell time; more access to recovery support and programmes; and more access to treatment in a range of different ways. That was a clear indication from the people we spoke to, and there are a number of reasons for that. There seems to be a waiting list for programmes across the prison estate; that access will depend on the number of people who apply for those programmes and where someone is in the prison.

We have had some interesting discussions about that. Someone could, for example, be in a programme or complete part of a programme and then get transferred across the prison estate. That might be for legitimate reasons in relation to prison numbers and pressure, but it breaks relationships and breaks trust, and it potentially means that the person is going to a prison that does not have the programme available. A range of different elements have been highlighted by the people we have spoken to, but that was one that stood out for us. Someone could be part of a programme, and they could be building relationships and engaging with prison staff really well, and then they are moved to another prison that does not have that programme.

We have to think about what we know about addiction and about changing people's behaviour. The opposite of addiction is connection. If people do not have relationships—we can think about how traumatised people are when they come into prison—it takes a long time for them to trust and engage. We can spend time, effort and energy on building those relationships and getting people into a programme and increasing their motivation. However, if they are then moved across the prison estate and the programme is no longer available the next day, that creates mistrust in the system.

I am conscious of time, and I know that other colleagues will want to feed into the discussion. That is just some of the feedback that we got directly from people in prison and from people in the community who were just out of prison.

Gemma Muir: SISCO facilitates a recovery cafe in Barlinnie and the school of recovery programme, which is six weeks long. That focuses on choices and behaviours, and harm reduction. It is about meeting the person where they are at, instead of having an expectation that everyone should be abstinent, because that is not possible. We cater to the individual's needs, and we look at how we can support them and give them the experience and knowledge to take up on the outside.

To pick up on what Tracey McFall spoke about, some of our residents who took part in that six-week programme were transferred before they got to complete it, and that had a detrimental impact on them. Those programmes are accredited by Fife College—we may think that that accreditation is just a piece of paper, but for them, it is hope. It is about having something in their hand so that they can say, "I completed this." When they cannot complete the programme, that is not great, to be honest.

In our recovery cafe, we have short-term people, long-term people and those on remand. Those who are on remand do not get offered the same support in the system as those who are sentenced. In addition, if someone is a high risk, they can be taken off a programme. Again, that means that we are punishing those who need help.

Sharon Dowey: Are remand prisoners offered the chance to go on a course?

Gemma Muir: They can come to the school of recovery, and to the recovery cafe in Barlinnie, but I am unsure of what else they are offered. There are many different programmes out there. That issue has arisen in the recovery cafe—although those who are sentenced or are long-term prisoners have been offered other programmes, the ones who are on remand have not.

Sharon Dowey: There are a lot of different programmes, because you have to cater for the individuals—

Gemma Muir: Yes.

Sharon Dowey: Right—okay.

Professor Galea-Singer: We can think about NHS staff who go into prisons, and what a typical

day might look like for them. They spend more than half of their day just giving out methadone, or Buvidal, to individuals, which is the treatment that people are generally given for opioid use disorders. There is very little time for them to do the real work, which is about taking a trauma-informed approach and trying to address the reasons why people use drugs. That cannot all be done by NHS staff, so having third sector provision in there—a scheme for recovery officers was also put in place—is fantastic, because we need such staff.

Once again, however, there is not enough capacity. When we look at the need, we see that the capacity that is provided to address it is simply not enough. I spoke to a recovery officer who told me that she dealt with three prisoners with substance use problems who went through the recovery programme. However, because there were just three, the programme was not perceived as a success by the SPS, and yet those three people, three years down the line, have not gone back to prison. They are in treatment and they have rebuilt their relationships, including with their kids. As Tracey McFall said, recovery is about being connected. Those are obviously success stories, but they are not perceived as such, because only three people were involved. The reason why there were only three people on the programme is because there were only two recovery officers for a whole prison, and that is never going to work.

The security measures that you put in place need to be balanced—you cannot afford to have big groups of 20 people going through, because the balance will not be right. That is just one example of why, although things are in place, they do not always seem to work.

11:15

Scotland's naloxone programme, whereby naloxone is given to prisoners and peer support is put in place to teach people how to use it, has been commended internationally as a really good programme. However, other programmes could be put in place, which could include not even sending the people to prison. If you know that the crimes that are being committed are related to substance use and are, to a degree, necessary crimes—people need to get the money because they need to buy the drugs—why is prison the best option?

Before I came to Scotland, I worked in New Zealand, where we set up the alcohol and other drug treatment courts—I think that a test of change is happening in South Lanarkshire. That work in New Zealand was amazing. The courts were run by two judges, whom we trained to provide support and to be trauma informed. The majority of people who went there did not need to go to prison—71 per cent of them did not commit other crimes, which is a significant number. Those people were engaged in treatment; the treatment services worked together with the courts to ensure that the approach was about the provision of treatment as opposed to punishment. I mentioned a few examples to give you an indication of that.

Such provision is not available for everyone—that is one of the points that I really wanted to mention. The lack of consistency is inequity—there is no other way to say it. It should not be like that. People who are on remand get less support and there is the risk of not linking them with treatment services once they are ready to leave remand. There are a number of issues to look at.

Sharon Dowey: You mentioned medication. Are you aware of issues around freed prisoners being unable to get the medication that they received in prison?

Professor Galea-Singer: Yes, that has been an issue, although it is being corrected in a number of schemes at the moment. For example, in NHS Fife, we have what is called a liberation meeting every two weeks with prison officers, police, courts and treatment services, including in the third sector. We get information about individuals who are likely to be released over the next two weeks. Forms get filled in with information on what treatment they are on, how they have been on that treatment in prison and what else they might need. We pick those people up straight away, as soon as they are released from prison.

In the treatment sector, we have developed rapid access clinics. We have created space so that we can easily see someone who has just been released—they might have been to court in the morning and we can see them in the afternoon. We have created a seamless system but, once again, it is not the same everywhere—I can say what the experience is in Fife, but it is not necessarily like that everywhere.

In Fife, we also have Phoenix Futures, which goes into prisons and prepares people before they get out. For example, people who started using substances in prison and do not know about the treatment service will need a sort of navigator to help them out because they will not know where to go once they are released; they will also be a bit unsure whether they will be stigmatised, because a lot of treatment services stigmatise people with substance use problems. It is about breaking the ice and helping the individual to come into treatment—we know that treatment works, so it is a really good approach.

When people go into prisons, depending on which one they go to, there might be a delay in their being started on medication. We have seen improvements, however, so I do not want to be all

negative about it. The awareness is there; we just need more staff to be able to do things.

Dr Rogers: Looking at support from a broader perspective, the SPS drug and alcohol strategy notes the importance of family relationships and having that meaningful connection. We should consider prioritising the support that is given for that and for family contact. It is not only about programmes of support for the individual.

Kevin Neary: Going back to the subject of remand, I do not believe that remand prisoners get the same opportunities as convicted prisoners. That seems to be an issue in most prisons that haud remand prisoners. As for the groups and courses that are put on for residents within prisons, if the staff are unavailable, nobody is moving. That is another hinder, which prevents movement. Guys who are wanting to move through the system and are getting to the top end of a long-term sentence, for instance, need to go through courses and recovery journeys. If there is a waiting list, their movement stops and they are kept there a year tae two year longer than they were supposed tae be there, because they have no completed certain courses. There might be courses there, but there are hoops that people have tae jump through to get to them, whether that relates to their rehabilitation process or how they are dealing with substance use. If someone is no doing that, they cannot move forward. There are people in prisons who are held back for years.

I will highlight something else because I am very passionate aboot it. People with criminal convictions are no treated the same in the community either. People can be recalled to prison for failing a drug test. If they go to see their supervising officers—which I encourage, because the treatment is there for them and they are entitled to it under the medication assisted treatment standards or MAT standards—and are honest and say that they have had a lapse and have used a substance, they can be apprehended and returned to prison. I am working wi a guy in that situation. The problem is no just what is happening in there; it is also aboot what is happening oot here, wi guys who come oot on licence conditions. It is called a public health crisis, but it disnae meet the needs of people with criminal convictions. They are seen as no being entitled tae treatment and they are no treated the same as others.

There is a lot that goes on. The courses are there, but people are no getting the opportunity tae get on them tae begin wi. That goes back to the impact on the families and everybody else on the ootside. There is a massive ripple effect.

Tracey McFall: I am keen to keep reminding the committee that a lot of this has already been evidenced, including in reports by His Majesty's Inspectorate of Prisons for Scotland on progression. This is not new; these are things in the system that we already know about. I am not sure if the committee has seen it but, in the recent prisoner survey on SPS, individuals in prisons are telling us about the impact of the cancellation of programmes and of not having access to programmes. We are here because we are in it every day, and we have worked in the sector for hundreds of years between us.

We already know a lot of the stuff that is the matter with the system. There is a role for the committee here. We might know this stuff, but what happens next? A lot of it has already been well evidenced in relation to the issues around access to treatment and programmes. I hope that helps, Ms Dowey.

Sharon Dowey: It does. In fact, on your comment on the SPS survey, I see that it recorded that 240 respondents wanted help for drug support and 201 wanted help for alcohol support, but did not receive it prior to leaving custody.

I return to your submission, Ms McFall. You wrote that help

"varies significantly depending on which establishment one is in."

It also mentions

"being transferred to a prison where there was no recovery support available."

Your submission goes on to note that

"Not all prisons in Scotland have specific staff allocated to supporting and embedding a recovery-oriented approach".

Do you have any comments on that? Can you say why that is not happening?

It is such an issue that the committee has decided to do an inquiry into it. It has been brought up by the Scottish Parliament people's panel. We already know what the issue is, so why is there such a range of services available in different prisons and why do some seem not to give any support at all?

Professor Galea-Singer: The SPS has a strategy to address alcohol and drug issues in prison. You have probably come across it, and it is fantastic—it says the right things. However, it does not have an implementation plan. As Tracey McFall said, we know all this, and we have known it for a number of years, but it is about implementing it. That is where we need to focus. We need to focus on an implementation plan that looks at the use of alcohol and drugs as a whole-system problem that stems from poverty, and at the social determinants of health, not just the end of the line, which might be prison, and addresses the issue more holistically.

We have an example of that in the medication assisted treatment standards, which are fantastic. Public Health Scotland has been monitoring the NHS to see whether we have implemented medication assisted treatment standards. Once again, the focus is on implementation. To what extent have prisons been monitored for implementing medication assisted treatment standards?

We know a lot already. It is really great to have this inquiry, but let us get on with it.

Sharon Dowey: We should take more action.

Professor Galea-Singer: Yes.

Sharon Dowey: Does anyone else want to comment?

Tracey McFall: I am a glass-half-full kind of person. I suppose that a positive thing from an SRC perspective is that the Government has made an investment to develop recovery communities, recovery capital and recovery activities in every prison, but we need to remember that that is two members of staff across the whole prison estate. When you go into prisons, there are cultures, systems and regimes that can be really hard to navigate. There will be some governors who get recovery and their door is open to it, the staff are involved, and there are cafes on a regular basis. There will be other establishments that might not understand recovery, have a different culture and a different way of working with their treatment regimes.

Work is being done. We are doing a baseline across every prison, and we are doing some evidence-based evaluation, so that we can get a proper sense of what is happening in Scotland. However, the support is not available to everybody who needs it.

Sharon Dowey: Is the barrier the resources to do it, or are some of the barriers the culture and that you cannot get a recovery cafe into all the prisons?

Tracey McFall: It is both.

Professor Galea-Singer: Culture is a big issue. The culture in prisons is certainly not trauma informed. In order to have a trauma-informed culture in prisons, prison officers need to be trained. There will never be enough recovery officers for prison populations. Each and every person who works in prison needs to understand what recovery means and why people are behaving in a certain way, and know what to do.

That is the other issue. A lot of the time, stigma arises from the fact that people do not know how to react to something that they know, so they close up and become hard. If you give people the skills to handle things, then you are slowly going to get culture change. It takes a long time to change, but you will slowly change the culture within prisons and take a more recovery-orientated approach. That will not just be for people who use substances; it will have an impact across the board.

The Deputy Convener: Thank you. Before I bring in Pauline McNeill, I will take a short supplementary from Rona Mackay. First, I have a quick question for Kevin Neary on matters that he was discussing with Sharon Dowey. What about protected or segregated prisoners? Is there an issue with them accessing programmes because different types of prisoners cannot mix?

Kevin Neary: Yes, there is. Again, it depends on each prison, how it is run and what courses are available in that estate. I do not believe that people in protection have the exact same access to programmes as those in the mainstream or under different types of protection, so to speak. Again, it is about the staff levels and whether the prison has the staff ready to deliver those. The prisons certainly will not mix groups of prisoners.

When I go into a prison, I speak to three or four different groups, whether it is the female population, the mainstream population or young offenders—I am talking aboot Polmont, for instance, where there are different age groups. I have met the group of people in protection, no through helping them around substances but mair through my mentoring role, and I do not believe that they get the same access. Only mainstream prisoners get the access; remand prisoners and those who are in protection dinnae get the same care, so to speak, as the mainstream.

11:30

Rona Mackay: I want to pick up on a point that Tracey McFall made, on which everyone seemed to agree. You all know what the problems are—they are long standing. Is it partly an organisational problem? Obviously, more money always helps, but is there an element of agencies not working together to secure pathways? Are there gaps in the system that could be cured by better organisation?

Tracey McFall: The issue is a wee bit bigger than that. In the needs assessment that was done in prisons, some issues were raised around the systems in which prisons operate. Prisons do not fit squarely into health and social care partnerships and community partnership structures, because we do not have a prison in every patch; prisons have their own autonomy, which means that things are different across Scotland depending on how the prison wants to operate. There are different cultures and

complexities in relation to the stuff that we have talked about.

We need to be clear that there is no parity. There is the NHS, the SPS and the third sector. Then there are loads of recovery communities and third sector grass-roots organisations that are scrambling about in prisons to support people. There is no equity in relation to some of that. Excuse the phrase, but the power sits with the NHS boards and our SPS colleagues. There is no parity.

The committee has done a lot of pre-budget scrutiny and I have also been involved in a lot of that—we all understand the complexities that are coming across the horizon in relation to third sector funding. That evidence is really clear. Given the lack of parity and that imbalance in the system, it is no wonder that we do not have co-produced, collaborative decision-making processes about how to change the system.

There is a bigger, broader point. I had a wee look at some of the things that have been happening across the sector since 2022. I uncovered 24 documents that pretty much all say the same thing. On top of that, there is the Audit Scotland report, the people's panel report, the national mission, the Scottish Sentencing Council, the MAT standards and the McLeish review. I even went back to the Christie commission—I am looking at it now, it is still relevant.

There is something bigger for me, Ms Mackay, in relation to the issue. It is not only about the NHS; it is about strategic leadership in the Government and joining the dots at a national level. There is enough money in the system; I just do not think that we are using it correctly.

Rona Mackay: That is what I was trying to get at—

Tracey McFall: To go back to the idea of hard edges, the areas of mental health, justice, addictions, domestic violence and homelessness are all siloed. There is a role for integration, for the health and social care partnerships—some of those do not have delegated responsibilities for justice, may I add, which makes it more complex. The problem is a lot bigger than just the SPS—

Rona Mackay: Okay, thank you—

Tracey McFall: Sorry, it is a bit of a hobby-horse of mine.

Rona Mackay: I will ask my other questions later, convener, and let Pauline continue.

The Deputy Convener: Of course.

Pauline McNeill: I will follow up on what you talked about, Tracey, which has also been a running theme. We have all these documents and strategies and lots of things that we are doing really well but the prison regime is completely overcrowded—we are not unusual in that in Scotland, because England has the same problem. That overcrowding is stressing out the staff who run the services and is impacting on prisoners, most of whom, according to the survey, do not even get out of their cells for more than an hour a day and some of whom are doubling up—I do not know what that looks like, but that is the regime in which we are operating—so it is not easy. You said to Sharon Dowey that there is no consistency there.

It is shocking that a prisoner who has opted to go on a programme and is in recovery could be transferred to another prison, when everybody wants that recovery, including the community and the individual. That begs the question that I will ask Tracey first: instead of all the endless documents, is it time that prisoners had a categoric right to continue their rehabilitation or recovery? I am sure that other members feel the same. I get many letters from prisoners about the waiting list for rehabilitation. They cannot get on the list and they say, "I want to do things to get into recovery." Is it time to take a different approach?

Tracey McFall: I have been in the sector for nearly 30 years—if you hear some frustration in my voice, it is not because I do not want to find a solution, but because I have had these conversations for so long. If we do not start to look at something different to free up space in the system, it will be difficult.

However, there are a few choices for Scotland. Sentencers are completely independent, so we may not be able to do anything if they do not have confidence in community sentences, and we may still send more people to prison. If we do not free up capacity in prisons to create space so that we can rehabilitate people, the only other option is that we get people when they come out, to stop them going back in again.

We need to make a choice. Can we change the whole system? Are we able to do that in the current climate in relation to everything that is going on? If we do not start to make some fundamental choices to do things differently, we will be in exactly the same position.

We could do some things differently at SPS level with a more consistent approach from headquarters on how prison regimes should operate. Right now, the SPS does not seem to take a centralised approach and say to prisons, "These are the bare standards and the bare minimum that people must get when they come into your care." Should that be enshrined in rights? We have had the same debate about the Right to Addiction Recovery (Scotland) Bill. Just because a bill says that someone has access to a human

right, it does not mean that that will happen in practice. Again, we have to have that debate.

Pauline McNeill: You said in your submission that provision depends on what prison someone ends up in. Do specific prisons not provide recovery programmes, or is it random? Are there specific prisons that you could point to and say, "If you get moved to that prison, you will not get a programme of recovery"?

Tracey McFall: I can tell you which prisons are really good. I would rather take that approach. We work closely with HMP Grampian. It is an outlier. Go and visit HMP Grampian and see the work that it is doing around the prison-to-rehab process. HMP Grampian has a good, connected and cohesive partnership approach, and a governor who gets it.

Pauline McNeill: Is it down to governors?

Tracey McFall: There is something about leadership, Ms McNeill—I am not going to lie. It is like all those leadership things. Sometimes, what happens in prisons is that the leader moves on, and that changes the culture. HMP Grampian is an absolutely fantastic example of how that thinking works.

That prison covers rural and remote areas as well, which is really interesting, because it still makes it work. Rather than saying what is not working, I suggest that you look at the areas of good practice, and HMP Grampian is one example.

Pauline McNeill: Any information that any of the panel could provide on that would be helpful. We need to know where the system is not working for the purposes of the report.

I will ask about remand prisoners. Around a quarter of prisoners are on remand. Does that need to change? The committee understands the subtle and important difference in how remand prisoners are treated, because they are innocent until proven guilty and they are waiting on a trial. Many of them will be on drugs—although they were not on drugs when they went into prison—and some will not be. There is a combination. Do we need to change anything in relation to how remand prisoners get access to drug treatment?

Kevin Neary: Again, it is doon tae courts, fiscals and the Crown Office. On people who do not use substances and are then remanded intae custody, we aw experienced lockdown and know what it was like. There was an increase in the number of people drinking mair alcohol who didnae normally dae that. Divorce levels shot sky high and people separated because they were living in the same house as the person they loved and they found out a lot aboot each other.

If you put two people in a cell together, it disnae take them a week or two tae start finding oot about each other, and how their relationship will go. The pressure of that leads to substance misuse. There are people who, ower time, have spent years on remand. Keeping people oot ae remand and dealing with their issues in the community before sentencing is part of bringing the numbers doon as well. They should have seen the issue of overcrowding coming over the hill when they changed the criteria for releasing people half way—or two thirds—through their sentence. They stopped aw that, so they knew that prisons were gonnae be overcrowded. It was coming; it was awready written doon in 2018 before prisons became overcrowded, but it was never looked at.

You need tae work oot why people are being remanded in custody. If it is to protect society or protect a court case, I get it, but there are people on remand the day who shouldnae really be on remand for the crime that they are in for. When the courts look at the social inquiry or background reports, as soon as they see that the person has drug addiction or mental health issues, they should make the decision about whether that person should go tae prison or no. Sometimes, people need hospital care mair than prison care. That is a big issue in Scotland. We are the worst in the world for remand prisoners.

Dr Rogers: We have nothing specific to say about how people in prison on remand are treated. However, the culture and consistency issues extend to families, and how they are contacted and supported very much comes down to the individual establishments.

Professor Galea-Singer: There is a difference between people who are on remand and those who are not. There is much less provision for people on remand, but, once again, we need to think about alternatives to remand. Do those people need to be in prisons? Do they need to be locked up? If the main issue is to do with substance use, why do we not try our utmost to put them into treatment? There are drug treatment and testing orders and a number of things that we can think of, such as the drug courts that I mentioned. It is really important that we start to think along those lines. Are remand and long-term sentences really the solution to the problem that we face?

Pauline McNeill: Thank you. I take the point that we are clearly locking too many people up, given that those on remand are a quarter of the prison population, but I am interested to hear that they do not seem to get access to the same treatment while they are there. I understand that there are some legal aspects to how remand prisoners are treated, but when it comes to support, if they have started taking drugs while

they are in jail—the number of prisoners who do so is high enough—there surely should be no distinction between prisoners and remand prisoners? What do you think, Gemma?

Gemma Muir: Well, it could be a first offence and there is a great deal of uncertainty for anyone on remand. Tracey, how long is someone on remand—is it 180 days?

Tracey McFall: It could be longer than that, depending on when their case goes to court.

Gemma Muir: It also depends on who their co-pilot is, because if the co-pilot is using substances, it is possible that they will too.

There is just a great deal of uncertainty. If you have a mental illness, where is the one-to-one support coming from? Is there mental health support and is it active right now? There is a lack of groups that support men in prison who have addictions, which is not great at all.

Tracey McFall: To make the committee aware, it is also important to raise the issue of people who get released straight from court. Last week, I received a case of a 59-year-old man with trauma and homelessness issues who was released from court. Before he was released, he got support from a prison-based housing officer and had a co-ordinated plan. They told him to go to the housing office, but when he went there, they did not know that he was coming.

11:45

The worker suggested that he go and stay on a couch or with a friend. The next day, he returned at 3 o'clock, and they told him there was a hotel space if he would like it. He could not stay in the hotel or the bed and breakfast. Also, because he had left straight from court, all of his belongings were still in prison. He went to get his belongings the next day, but the SPS could not find them. Can you imagine how that feels? He was released from court, but he did not know he was getting released, then he thought he had a housing appointment, but when he went to the housing office he was asked, "Who are you?" He is now homeless. He has trauma and everything associated with that. That happened two weeks ago. This is not a six-month old topic; this is happening right now. I am trying to contextualise and show that this is about real people's lives and that these are real scenarios that people are going through right now.

Pauline McNeill: I am glad you added that in, because I have a case exactly like that in Glasgow right now.

Tracey McFall: I could give you another two or three examples.

Pauline McNeill: A mother has written to me because, if her son is released—he might still be remanded but he may be bailed—she knows that there will be a vicious cycle. There is very little chance, or far less chance, of getting a person into recovery because of all those things. I appreciate you giving that example.

Kevin Neary: I had a situation just like that last year. It was through the prison. The sister of a guy was on the phone tae us tae get him support, because he had been bailed but was still on remand. Due tae the general data protection regulation the prison couldnae disclose his name tae me, and aw that stuff. His sister said, "He's 21 days clean, Kev, and if he gets oot, he'll overdose and he'll die." We tried tae get tae him, but the prison, which was only doing what its policy and procedures say it must do in respect of GDPR, refused tae gie us that name. The story tae that wis that he did get oot, but we missed him—we lost him: there wis nae other service there tae pick him up and, 10 days later, he wis dead. That was because of homelessness and as Tracey McFall just spoke aboot, aw the other stuff that follaes that.

That is happening a lot oot there, wi people getting let doon, no just in the prison sentence or remand time but when they come back into the community and there is lack of communication and support. That is the revolving door, where people go back to prison and then come oot here.

A lot of things have changed in prisons, but on this side of the wall it has got worse, and it is harder for people to live oot here. Sometimes people see that prison is probably the safer place for them, and that is a sad place tae be as well.

Gemma Muir: Often, there are no coping strategies in prison for people being liberated back into the community. We speak to individuals and ask, "Where are you going to be housed?" and they say, "I don't know,"—that could be a week prior to release, or it could even be days prior to release.

There is uncertainty and stress when someone does not have secure accommodation in place. What environment will that person be put into? It already causes a great deal of stress. What they are thinking in that moment is, "I am going to come back to prison". Again, it is that revolving door, because prison is what they know. They know what to expect in prison, but they do not know what to expect on the outside. Homelessness is a massive issue. Being put in hostels, again surrounded by drugs, in an environment that you do not know and are unaware of, creates fear. Not having benefits sorted because you have no identification is also a problem.

Another issue is general practitioners. I have worked with men who cannot read or write. They do not get taught that in prison. When they come out, they receive texts on their phone and they cannot read them. They miss appointments. If they do not have a doctor, how are they supposed to register with one if they have no adequate support or help? When that happens to a person—all that complexity—they want to go back to what they know. They want to reoffend, and that is so wrong.

Kevin Neary: When you are in prison, your breakfast, lunch and dinner are provided every day for you, your accommodation is there, you have no rent, gas or electricity bills or council tax. In prison, aw the pressures ae life are taken awa fae ye, which gies ye space and mindspace. That is where the opportunity for learning and rehabilitation happens.

When people are released fae prison and within 12 hours they need tae find breakfast, lunch and dinner and accommodation, and they realise that they have got bills tae pay and everything else—when it is aw coming on top ae ye—that is a lot ae stress in people's lives if they are no gied support.

Even in the transitional period when guys are going from prison life back intae the community, nobody is teaching them or making them aware that what they are gonnae experience is normal—that they are gonnae experience a loss of connection and community, which is what they had in prison. They are gonnae lose all that—they are going intae isolation and that does not feel right. The prison does not build it up and tell them that there will be a sense ae loss and separation when the structure and everything is taken oot their lives.

If they are lucky enough tae go intae accommodation, they still go through that process. It is a grieving process: when you leave any environment and move intae another environment, there is a sense ae loss and separation. If they educated men and women in prison about that journey and told them that it is normal to go through it, and offered them support, we would have fewer people going back to jail. When the stress comes on someone, they want tae subdue that emotional pain, so they go back tae what they know and they go back through that revolving door again—if they are lucky.

The Deputy Convener: I will bring in Ben Macpherson on that point.

Ben Macpherson: I am curious—witnesses have talked about the lack of consistency of rehabilitation and support inside prisons, and I have heard from my constituents about cases that are similarly concerning. We have talked for years about there being a lack connection on release and a lack of consistency in the support for people when they are released or bailed. What do you think we need to do to create that consistency, collaboration and coherence in relation to the NHS and GPs; housing and local authorities; Social Security Scotland and the Department for Work and Pensions; and third sector support, including the work that many of the witnesses are doing? How do we create that comprehensive package of what people need when they are bailed or released? From everything that you have said, and from what I have heard previously, what others have heard and what has been analysed and published, that package seems so key—not only to help the people who are affected, although that is the most important aspect, but to deal with the issues of overcrowding and to change the position in Scotland in the number of people who are incarcerated.

Professor Galea-Singer: The first thing that we all need to do is to own it as an issue. We keep waiting on each other to do something about it—if we see it as our problem and as a social issue that we are not addressing properly, we start wanting to do something about it.

The key is collaboration. Silo working was referred to earlier—there is so much silo working; so often, we put in place an organisation but it is not connected with the other organisations.

Ben Macpherson: Does somebody need to hold that coherence together and to drive it?

Professor Galea-Singer: Yes. Tracey McFall mentioned leadership. There needs to be somebody who takes on the leadership, drives the work and connects us together, so that we know what we are doing. It is a big problem: there are more prisoners with substance use problems than without them, so it is a significant issue. We need to have a shared vision that we all own and somebody who will take a bit of leadership—not to do everything themselves but to help each and every organisation to work better together and to build those bridges together. Unless we do that, we will not get anywhere. We saw with Covid that, when we worked together, we found solutions. Often, we do not work together—we work within our silos.

Gemma Muir mentioned GPs. That is such a quick win: if we know that somebody is going to be released, why is there no preparatory work to get them registered with a GP prior to release? It is a quick win and an easy problem to solve, but it does not get done. So, what happens when they are released is that they have no connection with a GP and it is difficult to get them registered because GP practices are full. If that work is done beforehand, that is one problem less.

I saw someone about two weeks ago who had substance use problems and a history of mental

illness—I am talking about psychosis, not just depression or anxiety. Her antipsychotic medication was not continued, so she was severely psychotic and needed to be admitted to the mental health unit in hospital. That could have been prevented if a GP had been on board beforehand and the medication had been continued. We need to work together to get there.

Ben Macpherson: Does anyone else want to come in on that?

Tracey McFall: I would probably go a little bit further—

Ben Macpherson: Please do.

Tracey McFall: —which will come as no surprise. There are a couple of key partners in this: the NHS and the SPS. The question for me, particularly in respect of the SPS—I am not criticising SPS or NHS colleagues, because I understand how hard we are all working on the ground—is the central leadership and not having consistency across SPS establishments. I do not understand why it is so difficult to make that happen. Every prison operates differently. There is nothing in the legislation or rules to say that that should be the case, so I do not understand why we could not take a helicopter view of the minimum standards across the whole SPS estate. Get it done. I am sure that resources will be required, but I would go further. I say that because we have talked about collaboration and the role of health and social care partnerships, but the situation is now getting more serious. The Scottish Government and this committee have a role to play, not in putting NHS boards and SPS colleagues under pressure but in asking question such as, "What would it take to get consistency across the prison estate in relation to access to treatment programmes?"

Ben Macpherson: You are talking about what happens in prisons, but how do we make the process more consistent for people when they are released or bailed?

Tracey McFall: I am on my hobby-horse again. I am going to go back to the data question, because there are massive data gaps in Scotland. How we commission services as people leave prison, and how areas are commissioning services in relation to the data on the needs of those populations, is currently not known. It is very clear from every report and every needs assessment that we have talked about that we do not have the data that we need across a range of prison systems and estates and, when people come into the community, in relation to how those connect. There are a number of different NHS systems in prisons, which are not connected to the SPS systems, and that is before people even move into the community.

There is a question for me in relation to understanding what the needs are but then commissioning the services based on local need. That is where our NHS, alcohol and drug partnerships and community justice partnership colleagues have to come into play, because we need to commission things differently if we are talking about taking a human rights-based approach. You keep talking about a human rights-based, trauma-informed, person-centred approach. I do not even know what that means. We need to look at how we commission services differently as people come out of prison.

Ben Macpherson: I appreciate that point. Everyone has their individual needs, and we want to take a person-centred approach, appreciating that there will be local differences, particularly with regard to geography, demography and third sector provision, for example. However, is there a more generic set of minimum requirements that needs to be enhanced or further agreed, to ensure that we do not have a situation of somebody leaving prison and, because there are not the required connections, going into temporary accommodation or being unable to access the prescription drugs that they have had in prison for a condition? I am aware of what local authorities and partnerships do, for example, in the area that I represent, but is there a greater need for consistency across the country?

Professor Galea-Singer: Earlier, I mentioned the liberation meetings that we set up in Fife, which have really worked. We used to have the problem that, suddenly, on a Friday, you had to find a way to get a prescription done and there was inconsistency—there was no housing, security and so on. We have a number of stakeholders at those meetings, including housing, SPS, the police, NHS and third sector partners.

12:00

The reason for setting up those meetings—I mentioned ownership earlier—is that the Fife alcohol and drug partnership, which is part of the health and social care partnership, has owned this and recognised it as an issue. We have put these meetings together in order to be prepared for these individuals, so housing is arranged beforehand and links with GPs are generally arranged beforehand—the preparatory work is done. That is a good example of a way forward. It is not a complex approach—it is not rocket science—but it does not happen in every region.

Ben Macpherson: I guess that the challenge is moving from generally to always.

The Deputy Convener: Mr Macpherson, with respect, we need to move on. Thank you.

Rona Mackay: Tracey McFall's point about the lack of parity between organisations is key to what we are talking about. As has been said, it can work and there are some success stories. Before I move on, I want to pick up a point with Kevin Neary. You have been doing excellent work with ex-offenders for years. On the basis of your experience over all the years that you have been doing that work, do you think that things are getting worse?

Kevin Neary: Yes, they are absolutely getting worse, and it is scary—it is fearful. The drug trend has changed from when I was in prison. You will find that heroin is in prisons, but no as much as what it used tae be, because it is happening in other ways. Security has changed, too, and the situation is getting a lot worse, which is why we really need to do something more about it. It is no looking good.

Tracey McFall mentioned the key being relationships, and I get the sense that the relationships between prisons and the NHS arenae as good as they might come across. The relationships between the SPS, NHS and third sector organisations need to be enhanced so that people get that support. What can we do to stop sending people with mental health issues to prison or to prevent people committing crimes that are due to their drug addiction? That particularly applies to the female prison population. Some of these girls have went through the most horrific experiences in their childhood and have so much emotional pain that they end up with addiction. They have to find money to subdue their emotional pain because of the misery that they have been through, and then they get sent to prison for shoplifting, which they did to get money to get drugs to subdue the emotional pain that has no been treated.

Rona Mackay: That is exactly the point that I was going to raise, but, just for context, before I come to that, HMP Low Moss, which is in my constituency has a recovery cafe onsite. It can see 200 prisoners engage in any given week. It says that there are pathways for external referral but a lack of available spaces, so it is kind of working, but we do not have the finished article.

Kevin Neary talked about women in prison, and I am incredibly worried about the number of women in prison and the knock-on effect on families. As Kevin said, most of the women—or a lot of them—have addiction problems and the majority of them have been domestically abused, sexually abused or have mental health conditions. In last week's evidence session, Kirsten Horsburgh from the Scottish Drugs Forum said that she did not think that prison is the place for people with addiction problems, and I agree with her. She also said that there is definitely an argument for decriminalising drugs. What are your thoughts on her views? Can we reach a consensus on how to deal with this? The status quo is clearly not working, so we need a radical shift in the approach.

Dr Rogers: From our area of expertise, we would not comment on whether drugs should be decriminalised but, as I have set out, imprisonment fractures families and the impacts are huge, so we feel that it should be reserved for those people who pose the highest risk.

As you said, Ms Mackay, we have particular concerns in relation to women and mothers. Imprisonment has even greater impacts on children because the fact that mum is in prison often results in a change of care arrangement. From our perspective, we want properly funded community-based measures that would reduce the need to send people to prison for remand or sentence, address more effectively the reasons behind their offending and protect children and families from the harms that imprisonment can bring.

I mentioned the UNCRC earlier—we are still waiting to really see the effects of its coming through in the justice system. If a parent is sentenced, we should look at child impact assessments. Under the UNCRC, community-based measures should be the default and custodial sentences should be avoided unless they are absolutely necessary. That is not yet coming through, so we hope that we will start to see that shift—certainly in the case of parents—and greater use of community-based sentences.

Rona Mackay: I think that everybody agrees on early intervention. Would anyone else like to comment on whether people with addiction problems should be in prison?

Professor Galea-Singer: I agree with the comment that Kirsten Horsburgh made last week. There are quite a few articles on the issue, one of which—"Sentenced to Treatment"—is about the effectiveness of not sending people with substance misuse issues to prison. I really agree with that, because sending someone to prison does not effectively change anything, particularly if you do not have enough recovery approaches in place to be able to change that behaviour. In fact, you are disempowering people more when what you need to do is give them the skills.

In NHS Fife, we have a saying: "Increase the skills and lose the pills". We are trying to provide trauma-informed approaches and to support people to understand why they have behaved in a certain way—why they have been using drugs and trying to numb themselves—so that they are then able to live life without substances. It is the same for individuals who have perhaps threatened social

safety when the reason behind that behaviour was the use of drugs. I totally agree that prison is not the right place for people with substance use problems.

Rona Mackay: As Sarah Rogers has articulated, the knock-on effect on children causes even more harm than the original problem. Does anyone else want to come in?

Gemma Muir: I agree with what Kirsten Horsburgh said as well. People have an addiction and are then in prison where there is no enough support for addiction. Trauma is not an excuse for behaviour, but it is an explanation, and that is what we do not get to the root of. We look at the addiction, we look at the behaviour, but we do not look at the pain or at the explanation. What therapeutic support is available in prison for those with addiction? Again, what we have is punishment and punitive measures.

Rona Mackay: It is almost as if you are punished for having an illness.

Gemma Muir: It is an illness, and you are punishing those who have been punished their whole life. You are not offering a therapeutic, holistic solution that could save that individual's life; all you are doing is causing more harm. Also, there are more drugs readily available in prison than there are out in the community.

Tracey McFall: I think that Ms Dowey mentioned last week that whether it is a shop theft or something more serious, there are no victimless crimes. I do not think that anybody on this panel would say that we want people to be at risk in our communities from really high-risk offenders. However, we know the impact and the knock-on effect that breaking women away from their families and children has on broader, bigger systems, and we know the costs of that. If they do not have the support in prison and we do not support them to look at the elements of their life that could help them to change their behaviour, we are creating more victims when they come out.

There is a bigger point here. As a society, we need to ask ourselves why it is okay to keep putting in prison people who have committed low-level drug and alcohol offences. Most of the people we work with and engage with have been let down by the system from a very young age. Let us not go back to 25 years ago, but we should acknowledge that a lot of the people we work with and engage with have been through the care system and have been let down as they went through that system. That is the pattern that we need to try to break. I suggest that we keep prison for the most high-risk offenders and that, as a society, we think about supporting people to reduce their offending behaviour, therefore creating fewer victims overall.

Kevin Neary: In the 1930s, there wis guys appearing in court in America for drink offences and sheriffs were sending them to Alcoholics Anonymous for 90 days as punishment. Oot ae that, hundreds of people went sober, and that is why the fellowships used the 90 meetings in 90 days approach—they adopted it, because sheriffs took it upon themselves to do that.

We had drug courts to deal wi people wi drug issues. It costs about £57,000 a year—it might be more—to keep somebody in prison wi untreated trauma, and then we release them wi even mair trauma. What if we looked at a solution for how we could help that person? How could we do that?

It is the same wi domestic violence. People are put in prison for domestic violence and given bail orders to stay away from the person they love, but it is never treated—it is just domestic violence. It is an emotional thing for men. I am just talking about men, because domestic violence predominantly involves men. I am using that as an example because it is aw about behaviour that needs to be addressed, looked at and changed.

The courts in the 1930s in America were daein amazing stuff and the fellowships adopted it. The day we think, "Why are we are no doing something different?", based on drug courts, for instance, to deal wi people who have committed crimes. As Tracey McFall says, society needs to be protected from the most dangerous people, and that is why we have prisons, but prisons the day house more people wi drug addiction and mental health issues than criminals.

Katy Clark: I want to ask about drug deaths in prisons. As we all know, Scotland has the highest number in Europe of drug deaths across society, and the number of deaths from drugs in prisons is increasing faster than deaths from other causes. What do the witnesses believe are the reasons for that, what is being done to address it, and what more can we do to address it?

Professor Galea-Singer: You are absolutely right that what we are seeing in society is also happening in prisons, but to a greater degree. We are seeing a number of issues. As was mentioned earlier, heroin and opioids used to be the main problem. That problem still exists, but we are also seeing more stimulant use now. Most recently, use of a drug called monkey dust, which is a very potent synthetic stimulant, has been reported in prisons. Patients report that it knocked them out completely or that it scared them. It caused them to be more violent and there have been more deaths. There is a combination of more potent substances on the market at the moment and they are causing more harm.

The other aspect is the forever challenge of trying to reduce access to substances in prison.

We know that people use a number of innovative ways to get drugs into prison. A quite common one is the use of drones to drop substances into prisons. I believe that that is against the law in England but not in Scotland, and something needs to be done about it to reduce access to drugs as much as possible.

However, it is not just about reducing access. We know that treatment, recovery and harm reduction work in parallel. If we invest in implementing the medication assisted treatment standards in prisons in the same equitable way that they have been implemented across the rest of Scotland, I think that we will start to see changes happening and potentially fewer deaths.

The issue of what is around in the market is tricky to manage, because there are many potent substances out there just now.

12:15

Katy Clark: To what extent are the medication assisted treatment standards being implemented across the prison estate?

Professor Galea-Singer: They are not being implemented enough.

Katy Clark: Would you say that they are not being implemented at all, or are there pockets of implementation?

Professor Galea-Singer: I would not say that they are not being implemented at all; there are pockets, but it is not enough. They need to be implemented properly and that needs to be measured. I mentioned measurement issues in relation to the recovery officer who worked with three people. It is not about numbers; it is about quality.

Medication assisted treatment standards are measured by asking people with lived and living experience to give feedback on what is working. We need to include that as part of our measures.

Tracey McFall: There are risk factors in relation to drug-related deaths. Mental health and the death of a loved one while in prison are risk factors. Planned transfers, lack of family support and drug use have also come up as risk factors in relation to drug-related deaths in the evidence base that I have looked at. We need to be cautious as there is a range of parts to the issue.

I have also seen in the evidence base and the needs assessments that people might have been using a substance in the community that is not available in prison, so they use other substances. They will use what is available, and there is data to bear that out. If the committee needs that data, I am happy to send on the links. That increases the risk to them—I think that Kirsten Horsburgh mentioned at last week's committee meeting the risk of not understanding the dose and so on.

One of the things that we need to do around drug-related deaths is learn from them, which takes us into the realm of fatal accident inquiries. I know that the committee is looking at FAIs, and I know that the cabinet secretary is progressing work on FAIs and so on. However, there is a broader question for me around drug-related deaths. I connect into alcohol and drug partnerships, so I know that it is really difficult to get toxicology results. You can be waiting 18 months for toxicology results to understand what someone had in their system when they died. A case does not come to a drug-related death review group until those results are available. It is hard to respond 18 months later. There are broader questions around the toxicology process.

On the MAT standards, I urge caution, caution, caution. We need all the elements of the MAT standards—harm reduction, naloxone, treatment and residential rehab—but we know from what has happened in the community that a heavy focus on a medical model has had a negative impact on all the other things that are needed to keep people in recovery. For example, people's housing needs and homelessness must be addressed, and they must have access to recovery communities, family connections, bonds, relationships and so on.

I give a word of caution on the use of MAT standards in prisons. Can we please make sure that when we implement the MAT standards, we look at not just the medication but everything else that needs to be wrapped around it? That is my plea—we are seeing real impacts on small grass-roots organisations because we are so heavily focused on a medical model.

That is a word of caution. We need to keep lived experience at the heart of all this. Talk to the people who are in that situation—they will tell you what the solutions are.

Katy Clark: I am going to ask about fatal accident inquiries, but before we focus on that, do any other witnesses have anything to add on why we have such high numbers of drug-related deaths in Scotland?

Gemma Muir: Drugs are readily available—they are rife throughout Scottish prisons. Does the individual know what they are taking when they are taking it? For example, drugs can be used in vapes, and if they are in a vape, the individual might not know what they are actually smoking.

If an individual is experiencing psychosis, taking synthetic substances has a massive impact on their mental illness and their behaviour. For me, it comes back to the reasons why an individual is using drugs in prison. If we get to the why, we can get to the solution.

Kevin Neary: I have been asking that question for years, but people cringe when I ask it. The 35 to 55 age group has the highest number of drug deaths in prisons. Drug-related deaths are seen as unintentional, but how many were intentional? How many were death by suicide? That has never been looked at.

We see it happen to experienced drug addicts—people who know how to use drugs and who have been using them for years. People do not like me going near the question, but naebody seems tae go in and ask, "How wis he?" or "How wis she a week before?" How was their behaviour?" That could be checked, but that information is no collected and no looked at.

When someone between the ages of 35 and 55 is caught between a rock and a hard place, and they see nae hope or opportunity, death by suicide is an option that they might take, but because drug paraphernalia is there, their death is considered a drug-related death. We can then add mental health issues on top of that. People avoid that discussion because they do not like tae hear aboot it, because then it becomes another issue. However, it needs tae be looked at, and that is another reason why there could be a spike.

We have to remember that Scotland's population is small compared with England's. We probably get a lot mair drugs coming into this country per head of population than England does. That is why England does not have the same problem. We are consuming a lot more, and that is why they are more readily available. That is also why we have a higher risk of unintentional overdose. When drugs go doon tae England, which is more populous than Scotland, they need tae be broken doon so that they can be distributed. I do not think that they get broken doon as much here in Scotland because of the smaller population. That is due tae the numbers as well. That is my theory.

Katy Clark: We have had quite a number of fatal accident inquiries. Do you think that fatal accident inquiries following death in custody have improved, particularly for families, since the independent review of the response to deaths in prison custody? Are we learning lessons from the fatal accident inquiries that have taken place?

Gemma Muir: This topic—suicides in custody—infuriates me. I last attended talk to me training in 2021. On that training, I was told that there had been a 40 per cent increase in the number of suicides in prisons—40 per cent. How did we get to that number? That is not only a number; those are individual lives. That is a mum losing her son or her daughter or a child losing their father.

In her statement on 27 March 2025, the Cabinet Secretary for Justice and Home Affairs said:

> "The SPS will overhaul its strategy in tandem with the evidence review, so it will be ready to publish at the end of this year, with a full training package to be implemented in 2026." —[*Official Report*, 27 March 2025; c 47.]

What has happened from 2021 to 2026? Where is the adequate training for suicide prevention in Scottish prisons? How many have we lost to suicide? It is disgraceful. We have failed the men and women in our care.

Tracey McFall and my CEO, Natalie Logan, have been speaking about that for years—not just about drug deaths but about suicides—and nothing has changed. On the day I did that training, I decided to write a play and a film about suicide and addiction, because sometimes talking about it is just not enough; I had to show that experience. I got the men in the prison to act in a play to give them a sense of belonging and of purpose, but I also did it to change society, because I have had enough.

Forty per cent—it should never have got to that.

Katy Clark: Do any of the witnesses have an explanation as to why the necessary action has not been taken?

Tracey McFall: I cannot speak for the SPS, but I imagine that it is because of resource, capacity and recruitment issues, and a lack of staff and leadership to put it into practice and implement it. However, again, I cannot speak on behalf of the SPS.

Katy Clark: You have already said that there is significant resource across the sector. It is about how that resource is used as well, is it not?

Tracey McFall: It is about the strategic priorities of any organisation to keep the people they care for safe. Being kept safe is a basic human right.

The Mental Welfare Commission for Scotland has done a huge amount of work on human rights in prisons. One report that has been out since 2023 made 25 recommendations, but only three have been met. It is about organisational strategic leadership and organisational priorities. That takes us back to our discussion about the value that we place on people in our prisons.

Katy Clark: Are the witnesses saying that that has not been given enough priority?

Tracey McFall: If there is a 42 per cent increase in suicides, I would suggest that there is a bit of an emergency happening in our prison estate that we have no really got a handle on. I understand all the complexities. I watched the evidence session last week, and I understand what Suzy Calder said about staff and

resources—I get it completely. Nevertheless, that is my view.

Kevin Neary: Some residents in jail the day are still living under Covid rules. There is still 23-hours-a-day dub-up, and there is nothing happening—programmes are no happening. I do not know whether the SPS has used that as a reason—I do not know what goes on—but staff are being redeployed tae dae other roles and are no delivering the programmes and so on.

When people are locked up for 23 hours a day, it drives them insane; we can see that from the levels of drug deaths and suicide. If they are on their own, or if they have someone else in with them and have to try to build a relationship with that person—whatever is going on—it is really difficult for them to be there. After Covid, prisons havenae opened up like the country has—that is an important factor right now.

Tracey McFall: There is a range of policy directives that everybody is moving towards, but over the past few months, we have had to put energy and commitment into early release. I am sure that our colleagues in the SPS, in the justice system and in criminal justice social work are working, and we are working locally, but we are having to move our focus away from the work that we should be driving forward in order to focus on early release. That has happened twice now.

I imagine that the same is happening across the third sector, in community justice services, in prisons and in the NHS. We were moving in one direction, but then we had to shift our focus to the early release process, which involves a huge amount of work. We have seen at criminal justice board level and at Scottish Government level that priorities have had to shift because something else has had to be dealt with straight away. That does not help, because it takes our energy away from the day-to-day work that we should be doing to help people in prison, if that makes sense.

Professor Galea-Singer: It is something to do with the culture as well. If we want to bring order, we could provide compassionate order, but we are lacking compassion in our prisons. Somebody mentioned the value of lives in prison—we are not valuing life in prison, but we can do that with compassion. None of us gets up in the morning and tries to upset others, but if people do not know how to keep order in the right way and do not have the right skills, they end up using harsh approaches. That does not help, and it retraumatises people.

To answer Katy Clark's question, we have not given that aspect enough priority. We have not looked enough at the drivers of the increased number of deaths in prisons. Although we have some evidence from looking at the FAIs, what are we doing about the situation? Once again, it is about implementation and the "What if we did this?" aspect.

Dr Rogers: Looking ahead, things are looking slightly more positive. We have been concerned that progress on the recommendations has been really slow, given the length of time that has passed. However, since the start of the year, we have had some announcements from the cabinet secretary. From our perspective, one of the main announcements was about the provision of non-means-tested legal aid for bereaved families with regard to FAIs. The cabinet secretary also announced an additional support service for families and a new family advocacy role.

We have been looking for all those things to happen, but they are in the very early stages, and we are waiting to see them being actioned and implemented. Nevertheless, they all have the potential to make a real difference to families' experiences of bereavement when there has been a death in custody.

The Deputy Convener: I have a final quick question to throw back to Professor Galea-Singer. It is based on something that she said earlier. The SPS "Alcohol & Drug Recovery Strategy 2024-2034" says that the medication assisted treatment standards will be fully implemented by April 2026. Given your earlier answer, Professor Galea-Ginger, is that target going to be hit?

Professor Galea-Singer: To be blunt, I would say that that is definitely not going to happen. If you want to make it happen, you need to put more investment in. I am thinking about not just financial investment, but about working differently in order to implement the standards.

I want to mention something else about the MAT standards. Tracey McFall said that it is a medical model—my apologies to you, Tracey, but I do not think that that is actually the case.

12:30

MAT standards 6 and 10, for example, are about trauma-informed care. With every MAT standard, there is a need to ask for lived and living experience feedback. There is a lot around recovery—MAT standard 4 is about harm reduction, which is another thing that we have not had the time to approach today. It is to do with needle exchange in prisons; we do not do much of that in Scotland—in fact, I am not sure that it is done at all—but there are international examples in Spain and Switzerland, where the success rates have been really good.

If we want to implement the medication assisted treatment standards, we need to look all those aspects and learn from international and local

initiatives. I stress once again—I keep saying the same thing—that we need an implementation plan, which needs to have specific, measurable, achievable, relevant, and time-bound, or SMART, targets to make it happen. The April 2026 deadline is a little bit unrealistic.

The Deputy Convener: I thank you all for what has been a very interesting and informative session for us. It will be extremely helpful to the committee as we shape our inquiry.

Throughout the session, some of you have offered to write to the committee with further information—for example, Tracey McFall offered to send on some data. The committee loves data, so if you have something in which we would be interested, please send it on.

Gemma Muir, you said something interesting about the play that you wrote—I am sure that we would value more details on that if you were able to send them in.

Gemma Muir: Tickets go on sale on Friday, so I will send youse a link. [*Laughter*.]

The Deputy Convener: That is now on the public record.

At our next meeting, on Wednesday 11 June, we will consider an affirmative SSI on home detention curfew licences and a negative SSI on firefighters' pensions, and we will begin stage 2 proceedings on the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill. Members may wish to recall that the deadline for lodging amendments for stage 2 of that bill is noon tomorrow.

With that, we move into private session.

12:32

Meeting continued in private until 12:56.

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