



OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 19 November 2025

Session 6



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CRIMINAL JUSTICE COMMITTEE

31st 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 Dowe (South Scotland) (Con)

*Jamie Hepburn (Cumbernauld and Kilsyth) (SNP)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Pauline McNeill (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Siobhian Brown (Minister for Victims and Community Safety)

Anna Donald (Scottish Government)

Jeff Gibbons (Scottish Government)

Amy McDonald (Scottish Prison Service)

Teresa Medhurst (Scottish Prison Service)

Linda Pollock (Scottish Prison Service)

Ash Regan (Edinburgh Eastern) (Ind)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 19 November 2025

[The Convener opened the meeting at 09:31]

Prostitution (Offences and Support) (Scotland) Bill: Stage 1

The Convener (Audrey Nicoll): Good morning, and welcome to the 31st meeting in 2025 of the Criminal Justice Committee. We have received no apologies this morning, and we are joined by Ash Regan.

Our first item of business is the continuation of our scrutiny of the Prostitution (Offences and Support) (Scotland) Bill. We have one panel of witnesses, and I intend to allow up to 90 minutes for this evidence session. I refer members to papers 1 and 2.

I welcome to the meeting Siobhian Brown, Minister for Victims and Community Safety; Anna Donald, who is the deputy director of the Scottish Government's criminal justice division; and Jeff Gibbons, who is the violence against women and girls unit head. You are all very welcome.

Before we start, I remind everyone to be as succinct as possible in your questions and responses, please. I invite the minister to make a short opening statement, and we will then move on to questions.

The Minister for Victims and Community Safety (Siobhian Brown): Thanks very much, convener, and good morning.

I have been watching with keen interest the evidence that the committee has gathered while scrutinising Ms Regan's Prostitution (Offences and Support) (Scotland) Bill. I am pleased to have this opportunity to set out the Scottish Government's current position on the bill, considering that evidence, and I hope that you will allow me the time to do that.

Although we have taken a neutral stance on the bill and await the committee's final report on it, I want to put on record, for the first time, the fact that the Scottish Government strongly supports the principle of legislating to criminalise purchasers of sex. That position aligns with that of our equally safe strategy, which is that commercial sexual exploitation is a form of violence against women and girls.

However, I have significant concerns with the bill as it is currently drafted. If the bill were to become an act, it would create a criminal law, and

it must therefore be clear and unambiguous and must have the confidence of the Parliament.

Let me turn to those concerns. On the criminalisation of purchase, we are supportive in principle, as I have said. However, that must be achieved in a way that ensures that the safety of women is paramount. Concerns were expressed to the committee about forcing activity underground and the subsequent risks to women's safety, and that remains an issue that is not adequately addressed by the bill. Similarly, the bill does not take sufficient account of the reality that the gateway for involvement in prostitution is increasingly online, or of the fact that there are strong links in many cases with serious and organised crime and human trafficking. The bill as drafted does not engage with those significant issues, and it would require amending before it could gain the confidence of the Parliament.

As I have said previously in correspondence, the right to support that is proposed under the bill is not well defined, it is not fully costed and it does not take account of the current provision of services. I again point to the need for clear legislation, particularly to allow for adequate financial memorandums. The bill as drafted does not allow for that, and amendments are needed to outline what support is required, so that costs can be properly assessed.

I have already made clear why we do not support the quashing of convictions, and our view on that has not changed and will not change.

Given the points that I have outlined, I am extremely concerned that there are significant policy and operational challenges with the bill as drafted, and there is a need for substantial amendments to address them. I am also concerned that there might not be enough parliamentary time left to develop the amendments that would be needed to deliver competent, safe and workable legislation that we can all agree on and have confidence in.

The bill is not a Government bill, and it is for the committee and the member in charge to decide on how those concerns can be addressed. If it was a Government bill, in order to address the clear issues that we have identified with it, we would require, at the very minimum, significant consultation and engagement with the women who would be impacted by it, with justice partners including Police Scotland and the Crown Office and Procurator Fiscal Service, and with wider stakeholders, such as the Convention of Scottish Local Authorities and the third sector organisations that currently provide support.

By way of example, committee members will be familiar with the time that was taken to develop the necessary amendments to the Victims, Witnesses,

and Justice Reform (Scotland) Bill in order to address the concerns that were raised and the committee's views. That bill was considerably broader than the one that is before us today, but that example highlights that, without that time to develop the policy behind the amendments, we would not have had a workable bill.

Anyone who has put forward a member's bill knows that there is a lot of hard work behind it, and I thank Ms Regan for all the work that she has done thus far. This is an emotive, sensitive and complex issue, and it is important that we get it right. As elected representatives, we have an obligation to scrutinise all proposed legislation, whether members' bills or Scottish Government bills, and to address concerns that are raised during the parliamentary scrutiny process. The issues that have been raised with the bill as drafted cannot be ignored. They must be addressed adequately by the member, so that we have a clear and workable bill to vote on as legislators. I am interested in the committee's and Ms Regan's views on how to address the issues that have been raised with the committee by the Government and stakeholders ahead of the stage 1 debate.

As has been reflected in much of the evidence available to the committee, legislation alone will not address the fundamental reasons why women turn to prostitution in the first place. The Government is also tackling those fundamental societal issues, within our powers, including the cost of living, addiction, inequality and poverty.

The Scottish Government will continue its work to tackle violence against women, to support women to exit prostitution and to support Police Scotland with its operation begonia approach, which recognises that those involved in prostitution are victims and signposts them to support to enable them to exit from prostitution should they wish to do so, while at the same time tackling kerb crawling and exploitation. We have been clear that this is not the end of our work around commercial sexual exploitation, and we will build on that work using what we have learned.

I am happy to take any questions.

The Convener: Thank you, minister. There is a lot for us to think about and cover in our lines of questions.

I will open up the questions with a fairly general one relating to the equally safe strategy, which has been embedded for quite some time. The strategy includes provision regarding prostitution, recognising that it is a form of violence against women and girls. Will you set out in a bit more detail the approach that has already been taken in Scotland to tackle prostitution in the context of the equally safe strategy?

Siobhian Brown: Our equally safe strategy, which was launched in February last year, explicitly states that prostitution is violence against women and girls, and that has helped us with our strategic approach to challenging men's demand.

The strategy aims to challenge men's demand and to put in place support for people with experience of commercial sexual exploitation and help them to exit if they wish to do so. It also aims to raise public and professional awareness that women with experience of selling or exchanging sex are victims of exploitation. It highlights the importance of engagement with stakeholders, including people with lived experience, to inform future policy.

Our strategic approach aims to challenge and deter men's demand for prostitution and improve access to support for women, from crisis support through to longer-term support. That reflects the complexities of the issues that are associated with prostitution and the need for a multifaceted approach.

On the ground, we are currently working with Police Scotland to support the implementation of operation begonia, its new national approach to prostitution, which is designed to route women with experience of commercial sexual exploitation to support services as opposed to their being charged, and involves police more evidently using the powers that are currently available to them to challenge men's demand.

Operation begonia has been going on in Aberdeen for many years; it is now operating in Dundee and Edinburgh, and in Glasgow under another name. The latest update from Police Scotland on the operation states that there have been more than 114 patrols; that 171 males have been warned and 48 charged; and that there has been in excess of 250 intelligence logs. Importantly, where women consented, 79 men have been referred to support.

That should give you an idea of what is happening. There is a lot more work going on, but that is what we are currently doing with our strategic approach.

The Convener: Thank you, minister. As a north-east MSP, I am familiar with the brilliant work that has been going on in the city of Aberdeen for quite some time within operation begonia; it involves some fantastic multi-agency partnerships and work.

Some of your correspondence to the committee referred to the potential development of operation begonia; I might be wrong on this, but I think that I read that there was potential for the operation to be further developed. I would be interested in hearing what other plans, if any, the Government has, separately from the bill that we are

scrutinising, with regard to reforming the approach to prostitution.

Siobhian Brown: The plan is to roll out operation begonia nationally and get the support in place for that. As I said, it is currently operating in four places. I know that the committee has had an evidence session with Police Scotland, so you will know that one of the challenges is how to get people who are involved in prostitution to have confidence in, and trust, the police, and the police have been working very hard on that since we implemented the strategic approach last year. The long-term aim is to get that approach rolled out nationally. I know that there could potentially be legislation in relation to that, including this bill, but we are currently concentrating on getting the support in place for people who want to exit prostitution, because it is a very complex issue.

The Convener: My quick final question relates to the issue of tackling men's behaviour, which has been mentioned in some of the evidence that we have heard. I am interested to know what work, if any, is going on in Government with regard to that particular aspect of the overall approach to tackling prostitution.

Siobhian Brown: The crux of it is how we get societal change so that it is unacceptable for men to use violence against women and girls. There is a lot of work going on in that area with Police Scotland. Jeff Gibbons may have some further information.

Jeff Gibbons (Scottish Government): Yes—I am happy to add to that. As part of broadening out operation begonia from a local to a national concept—developing a consistent national strategic approach for the operation is one of the key changes—we are addressing the education aspect. We are working with education colleagues on producing products and leaflets both for the public and for those who are involved in prostitution.

09:45

We are also working with institutions to ensure that the staff are appropriately aware and able to manage the issue, and that they have the proper experience. There have clearly been issues with regard to some national organisations—not necessarily those that form part of the support network—not ensuring that their staff were sufficiently aware of the issues around language, engagement and behaviour. That is quite a significant change.

We are focused on data gathering, which has always been an issue. The gathering and sharing of data between support organisations and the police was one of the elements that was highlighted following the Emma Caldwell case.

That work will inform some of the educational work that we do.

Those are quite significant developments with regard to ensuring that people have the confidence to report to the police and that appropriate action is taken early.

The Convener: Thank you—that is a good update to hear.

I will open up the session to questions, and bring in Liam Kerr.

Liam Kerr (North East Scotland) (Con): Good morning, minister. According to the policy memorandum, the bill's remit

“is to reduce the amount of prostitution in Scotland”.

It will do so, according to your letter of 23 June, by challenging men's demand and tackling commercial sexual exploitation. As you will have seen, the committee has heard conflicting evidence on whether the bill's provisions, and specifically the new offence in section 1, will achieve those aims. In particular, it has been suggested that the bill will not reduce demand. Based on the Government's interrogation of evidence, especially international evidence, does the Government think that the bill's core provisions will achieve those aims? If so, does the Government support the bill in principle?

Siobhian Brown: At this stage, we are staying neutral. I have been watching all the evidence sessions with great interest, and I am aware of the conflicting issues and concerns that have been raised on both sides. I do not think that criminalising the purchase of sex is a silver bullet—we need to take a more holistic view, and look at support. We have been looking at all the international examples of where the type of model in the bill has been implemented—again, there are conflicting views on how that is working in different countries.

In my personal view, there is still a lot of work to be done. As I said, the Scottish Government is not against criminalising the purchase of sex, but we need to get it right. I cannot currently see that anywhere in the world is doing it right. We are currently focusing on support and the exiting of prostitution, and trying to bring about a societal change with regard to men's demand.

Liam Kerr: I will press you on that. If you have been looking at the international evidence, what does the Government conclude regarding whether provisions such as those in the bill would reduce the amount of prostitution in Scotland and tackle demand?

Siobhian Brown: To me, the conclusions are unclear that it is not working internationally.

Liam Kerr: Forgive me, but I did not quite understand that answer.

Siobhian Brown: You are asking me whether the Scottish Government thinks that the international examples of criminalising the purchase of sex are working.

Liam Kerr: And whether they would map on to Scotland in order to achieve the same end.

Siobhian Brown: Yes—I am saying that the international examples, which the committee has heard about in evidence, show that that approach is not 100 per cent working and there are challenges with the implementation of such legislation internationally.

Liam Kerr: Thank you. The committee has heard in evidence that key provisions of the bill—again, section 1 in particular—would impact on the safety of people selling sex. Does the Government share those concerns? If so, in what ways does the Government think that the risks would be increased? Does the Government think that any amendments could be made at this stage that would reduce those risks?

Siobhian Brown: To me, women's safety has to be paramount. In your evidence sessions, and in the discussions that I have had, I have heard women who are currently involved in prostitution expressing genuine fear that they would become more endangered as a result of the provisions in the bill. I do not think that their voices have been in the conversation thus far, and we must have them around the table as we consider this legislation, because it will impact them. If we are to legislate, we must work together on how to do so safely, so that we do not put any women in further danger.

Liam Kerr: I understand.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): I would like to pick up on the issue of safety, which has been a substantial concern for me and, I think, all of us on the committee. In one of our evidence sessions, someone made the point—which I was very taken with—that you can never make the selling of sex truly safe. The fundamental question for us is whether the bill makes it less safe for those involved. There has been conflicting evidence but concerns about safety have definitely been expressed—at the very least, there is a perception that the bill could make things less safe. Is that your uppermost concern?

Siobhian Brown: Yes, women's safety is my main concern. As I have said, this is a really complex issue, which involves lots of vulnerable people. I appreciate and understand that it is about violence against women and girls, and exploitation. However, we must ensure that we do not put any women in further danger, and there is that possibility here.

I appreciate that there are conflicting sides to the argument. It is not clear cut. I do not think that anybody who has watched your evidence sessions could just jump to one side—I personally could not—because both sides are passionate and the issues are emotive. The issue of the potential for women to be made less safe is one on which I feel that further work needs to be done. I do not want to put any women in further danger.

Jamie Hepburn: That is certainly my uppermost concern. It has been difficult because of the conflicting evidence that we have heard, as you said, but that concern has definitely been expressed.

Before I turn to your remarks about the need for substantial amendments, I would like to pick up on Liam Kerr's questions. The bill is predicated on reducing demand, and he asked about the international evidence in that regard. In your letter of 29 July, you cite the Irish experience and the fact that the Irish justice minister set out that their review highlighted that demand had not decreased under the model. Has there been engagement and dialogue with other jurisdictions to try to understand what their practical experience has been?

Siobhian Brown: Yes. I am aware of that report from Ireland, which came out in March, and of the conflicting evidence that was heard by the committee in that regard. I will bring in Jeff Gibbons, because he liaises with various Governments that are involved in the prostitution legislation. He can give you an update on what we are doing on that point.

Jeff Gibbons: We have been in contact with lots of different countries about their experience for some time. As you have highlighted, Mr Hepburn, one of the challenges is the conflicting evidence. I do not want to point to any particular country, but the engagement that we have had has highlighted challenges between the rationale that is adopted for pushing forward legislation—that is, the principle behind it—and the challenges around its implementation.

At least two of the countries that have looked to adopt aspects of the Nordic model have had to reflect on those issues and have made changes since. That process is on-going. We have particular contact with justice colleagues in other countries, and we know that police in the Republic of Ireland face on-going issues, particularly regarding the challenges around online activity, because the Nordic model was established some time ago and does not necessarily translate to the changing scenario. Similarly, from our discussions with the police and the organisations that we deal with in Sweden, we are also aware that they have not seen a change in culture and are aware that men are still purchasing sex when they go

overseas, for example. There has been some concern there about how the model has worked in practice.

I do not want to pick and choose which pieces of evidence to highlight, but those examples raise the broader issue in relation to the Nordic model about the need to ensure that sufficient safety considerations are in place to negate concerns about the consequences of criminalising the buying of sex. I would highlight the challenge of delivering the services that would ensure that those considerations are in place. In the French example, we learned that there were huge challenges with social housing, which was essentially part of their model, and they have not been able to deliver on that aspect.

Those issues need to be part of the broader discussion. The international examples have informed our thinking about how future legislation might work from the police perspective, and the broader challenge of providing support.

Jamie Hepburn: So there is direct engagement—you are not just relying on written evidence.

Jeff Gibbons: We have conversations, including with our colleagues in France, which is often cited as an example.

Jamie Hepburn: That is useful to know, and we might want to hear more about it in due course.

Minister, you mentioned that there would be a need for substantial amendments to the bill to ensure that it can work effectively with regard to the fundamental principle of criminalising the purchase of sex, which you support. Will you set out in a bit more detail what you mean by the substantial amendments that would be required?

Siobhian Brown: We need more detail on support. If this was a Government bill, you would quite rightly be scrutinising the proposal and asking for detail on how long the support would be provided, whether we would be paying for rent, council tax and childcare, what would happen if the woman chose to go back into prostitution and returned to receive support in three months' time, and what the timescales were expected to be. Those are the kind of questions that I would expect to be able to answer as a Government minister. If it is to be good legislation that we can vote on and have confidence in, MSPs would need to have detail on how much it would cost and what support would be in place. At this stage, we do not have that detail.

Jamie Hepburn: I have one final question. You mentioned concerns about the provisions on quashing convictions. I know that other colleagues want to ask about that, but I have a specific question. A contrast will be drawn with the

situation regarding the Post Office's Horizon system. I want to better understand what you meant in your letter of 29 July, when you said, in relation to the Post Office case, that those convictions

"could not be considered as safe".

Perhaps I can set out my understanding and see whether that tallies with what you have said. Putting to one side for a minute whether we think that there should be convictions under section 46 of the Civic Government (Scotland) Act 1982—of course, that is the fundamental question, but it is the law as it stands—is your position that convictions in those cases can be considered safe?

Siobhian Brown: I will talk about my reasoning for our view that convictions should not be quashed. Although we acknowledge that there has been a legitimate debate about how criminal law should operate in respect of prostitution in the future, if the bill were to quash convictions, it would encroach on the role of the independent criminal courts by quashing legally sound convictions. The Post Office situation was unique, and we know that there were no sound convictions. The quashing of convictions under the 1982 act would be unprecedented in recent Scottish history. Although the Parliament has acted historically to repeal offences relating to offensive behaviour at football matches, the relevant legislation did not quash the convictions. That is because legally sound convictions were achieved under the law of Scotland at the time. The Parliament can change the law for the future, but it should not revisit independent criminal court decisions, as that would significantly impact the independence of the court system.

I will touch on the Post Office. When the Post Office (Horizon System) Offences (Scotland) Act 2024 was passed, prescribed conditions were met. However, the fundamental difference is that the convictions were tainted by the fact that the information technology system had not been functioning properly. The Parliament took an exceptional step to quash those convictions in order to ensure that victims could speedily access justice and that they could receive compensation from the United Kingdom Government for the harm that was caused by the use of the IT system. I am not sure whether it was appreciated how much of an unprecedented step that was.

Another issue is that the costs that were involved in quashing the convictions under the 2024 act were £4,000 per person. That is a considerable amount of money, given that there are about 10,600 previous convictions in relation to Ms Regan's bill. Also considering the independence of the judiciary, that is not

something that the Scottish Government or the Lord Advocate would support.

Jamie Hepburn: That is helpful to understand.

10:00

Katy Clark (West Scotland) (Lab): Minister, you said that this is a difficult issue. Do you agree that, for a long time, the issue has been put in a box that is labelled “too difficult”? You said that you agree with the general terms of the legislation that is before the Parliament and the general principles of its various provisions, but that you believe that amendments are necessary because there are significant concerns about the drafting of the bill. Do you agree that it is our responsibility to work on the bill to get the drafting in the right place?

Siobhian Brown: I have concerns about the number of amendments that may be needed. On your point about putting the issue in the “too difficult” box for too long, we must acknowledge that, in 2025, we are living in a different world from the one in which the Nordic model was introduced in Sweden in 1999, because of the online aspect. The bill does not currently take cognisance of the online factor, which is a growing trend that we need to consider how to tackle. Also, when we come to legislate in five or 10 years, there might be something that we are not even aware of at this stage.

Katy Clark: That might be the case, and the Government might want to introduce further legislation in due course. However, you said that the Scottish Government supports the creation of a criminal offence that would prohibit paying for sex. Are you suggesting that something has happened to change that view?

Siobhian Brown: No, that view is part of our equally safe strategy. We consider paying for sex to be a form of violence against women and girls. We have never opposed legislation on the matter, but we have focused on providing support and looking at how international models of legislation are working and how they are not working. That work is on-going. We are not opposed to legislation, but we want to do it right.

Katy Clark: You were asked by Jamie Hepburn whether you believe that the bill would make things less safe for women. Are you suggesting that the provisions that would criminalise paying for sex would make things less safe for women?

Siobhian Brown: From what I have heard, they could potentially do that. You have heard evidence from women in that regard. I do not want to go into detail about the reasons why that is, because I am sure that you have heard such detail.

Katy Clark: It would be helpful to get some detail about why you think that.

Siobhian Brown: One reason is that women who currently choose to be involved in prostitution and have clients come to their house can have security in place, so that they can get the client’s identification, passport, credit cards and so on.

Katy Clark: So, the issue is about checks—you think that that aspect needs further exploration and discussion.

Siobhian Brown: Yes.

Katy Clark: On the provision about quashing existing convictions, will you clarify the Scottish Government’s position on pardoning the women who have such convictions?

Siobhian Brown: Pardoning is something that we have previously done. It becomes an active consideration only if the activity that would be pardoned is not also decriminalised. It also relates to the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018. We would need to do further engagement if we were to do that.

Katy Clark: To clarify, is the Scottish Government in favour of decriminalising women who are involved in the sex trade?

Siobhian Brown: We are not looking at that at the moment, no.

Katy Clark: That is part of the bill. Do you have a position on it?

Siobhian Brown: We do not support that at the moment.

Katy Clark: So, you are saying that women should continue to be criminalised. That is the reason why you would not support the quashing or the pardoning of previous convictions.

Siobhian Brown: Pardoning is complex, and that is why we need to have more engagement. If we did decriminalise—

Katy Clark: If you think that women—

Siobhian Brown: Just let me get my point across. If we were to decriminalise the selling of sex, there would be nothing that is against the law, so the police would not have any powers in relation to the purchasers.

Katy Clark: Yes, I understand that—

Siobhian Brown: It would put the women in more danger.

Katy Clark: Are you saying that you do not support decriminalisation?

Siobhian Brown: I do not support that at the moment.

Katy Clark: At the moment, you are willing to accept the status quo, which is that the perpetrators, most of whom are men, behave in a lawful manner and that the women who are involved in the sex trade are criminalised. Is that acceptable?

Siobhian Brown: We have to look at the safety of women, and I have had discussions that potentially—

Katy Clark: Well, I have asked whether it is acceptable.

Siobhian Brown: Is it acceptable? We are doing everything that we can.

Katy Clark: In your opinion, is it acceptable?

Siobhian Brown: We are currently doing our best to ensure that women are kept safe. We will not do anything or roll out anything that puts women in any further danger.

Katy Clark: Thank you.

Pauline McNeill (Glasgow) (Lab): Good morning. Having listened to your answers to Liam Kerr, I confess that I am unclear about the Government's position on the criminalisation of the purchase of sex. I totally acknowledge what you said about the world having changed and about women's safety, but is the Government in favour of introducing a criminal offence or not? Perhaps you do not support the bill, but are you at all in favour of criminalisation?

Siobhian Brown: It is something that we would consider in the future. As we said, we see it as a form of violence against women and girls. That is covered in our equally safe strategy. The Scottish Government has not been working on legislation on it, but we do not oppose doing so in the future.

Pauline McNeill: So, it is right to say that you do not oppose criminalisation in some form?

Siobhian Brown: Yes.

Pauline McNeill: I do not know whether Jeff Gibbons could answer this, but has the Government done any background work on the factors that drive women into prostitution or the sex trade? We have heard offline from some women who are involved, but we do not have a full picture of what drives women into the trade. There are various factors, but I wonder whether the Government can share any data on that.

Jeff Gibbons: In many ways, the genesis of the strategic approach is the recognition that criminalisation on its own will not address the reasons why women are driven into prostitution in the first place. It is very much about ensuring that poverty, housing and the many issues that have been identified, including in lots of the correspondence that you received from other

organisations, are addressed first. The focus has been on ensuring that a support network is in place in order to support any further moves to legislate. In instances in which criminalisation has come in and the support network has not worked, the reasons why women are there in the first place have not been addressed. We are focused on ensuring that a support network is in place first, which will drive the legislation that we want thereafter, and on what we need to change societally to address the reasons—drug addiction, poverty and so on—why women turn to prostitution in the first place.

Pauline McNeill: The reason why I asked that question is that we have heard that poverty is a factor, which is borne out in your data. Is it because benefits are too low? I do not know anything about the earnings of those involved.

Jeff Gibbons: It is multifaceted. Some of the challenges for women who are involved in prostitution are around access to services and how those services engage with them. For example, part of our work has been around employability, so that, when the women approach employment, people can support them, direct them to the right places and ensure that their concerns about employability—this goes back to the issue of criminal offences—are addressed as part of the process.

It is about ensuring that the stigma that is attached to prostitution and the judgmental attitude that a lot of organisations have are addressed so that the women engage. Some women already engage with statutory services, but that is not necessarily recorded or accounted for. That is part of what we need to understand better through data gathering. The issue is how the women access and respond to existing services, but we also have to understand the reasons why they turn to prostitution initially. As much as we want to tackle prostitution and enable those who are involved to exit sustainably, we have to drive policies to ensure that they do not need to turn to it in the first place.

Pauline McNeill: That is why I am asking the question—I am not aware of the data. Are you saying that the data shows that it is primarily because women are in poverty, as opposed to because they can earn a lot more money in prostitution than in an ordinary job? Do you see what I am asking?

Siobhian Brown: I had a briefing last week from Linda Thompson from the Women's Support Project. She does a snapshot every year and she gave me a preview of last year's snapshot, which looked at about 100 women across Scotland. It goes into the complex areas of poverty, drug addiction and mental health issues. It is a very

good report, and I think that the committee would benefit from seeing it.

Pauline McNeill: So, the Government is basing its approach to this issue—as well as your violence against women strategy—primarily on the view that it is about women being in poverty. I understand—

Siobhian Brown: The reasons are complex. It is not just about poverty; it is also about mental health issues and addiction.

Pauline McNeill: In other words, in order to get women out of prostitution, those are the issues that need to be addressed.

Siobhian Brown: Yes.

Pauline McNeill: Thank you. Do you think that prostitution is, in effect, decriminalised now? Given that we do not have a current law that criminalises the buyer, and we have heard from the Crown that there are very few prosecutions of the women, is it, in effect, decriminalised right now?

Siobhian Brown: Based on our conversations with Police Scotland and the work that it is doing at the moment, I think that the police are not targeting the women; they are targeting the men.

Pauline McNeill: Do you have a concern that prostitution is, in effect, decriminalised, because we do not have anything to prosecute men with?

Siobhian Brown: This is the thing—I go back to the fact that it is a complex issue. We are not seeing any examples anywhere. Anna Donald can come in on that.

Anna Donald (Scottish Government): I refer to the statistics that the minister mentioned earlier about operation begonia. Charges have been made against men as part of that operation, so there are legal routes for charging, although not for the precise offence that is being suggested in the bill.

Pauline McNeill: What are they charged with?

Anna Donald: There are different offences.

Jeff Gibbons: There are quite a few, including running a brothel and trading in prostitution.

One of the challenges with the approach previously was that the police were not being seen to use the powers that they already had. That is part of the reason why we have engaged with Police Scotland on a national approach.

When it comes to soliciting as set out in section 46 of the Civic Government (Scotland) Act 1982 and other offences, Police Scotland is clearly treating the women as victims, and quite rightly so. That is where engagement and signposting to support services come in. The police are utilising

their powers more, and part of our discussion with them is about—

Pauline McNeill: So there is existing legislation that could be used better.

Jeff Gibbons: Yes, and that will drive what additional legislation or powers they might need in order to address the changing dynamics of prostitution.

Pauline McNeill: Lastly, the Government said in a response to us that there would be potential challenges to enforcing the proposed new offence in the bill. Have those challenges been covered in what you said to the committee so far? What did you mean?

Siobhian Brown: From listening to the police, I think that they are supportive in principle, but there is the issue of how it would work operationally. That is what I meant.

Pauline McNeill: Did you mean setting charges against men—

Siobhian Brown: Yes.

Pauline McNeill: Did you mean proving the offence?

Anna Donald: Yes. In the police's evidence, the main issue was how the offence could be proven and at what point the offence could be said to be completed. That seemed to be the main issue that the police raised as an operational difficulty.

Pauline McNeill: If the concern is that it would be difficult to prove evidentially, is there a way of fixing that with amendments?

Anna Donald: I think that that would be—

Pauline McNeill: If there is not, we would have to draw the conclusion that there would be no way of drafting it.

Anna Donald: We would need to continue to discuss that with justice partners, just as we would want to discuss other powers that might be necessary to address the actual issues.

Pauline McNeill: Are you talking about the way in which Ash Regan's bill is drafted at the moment?

Anna Donald: Yes. I took from some of the police's evidence that they thought that that would present evidential challenges, particularly in relation to how to prove when the offence is completed.

Pauline McNeill: It could be done in a different way, potentially.

Anna Donald: It is not a Government bill, so we have not looked at that aspect in particular.

Pauline McNeill: Thank you very much.

The Convener: I would like to follow up on Pauline McNeill's line of questioning about the provision in the bill for the repeal of the offence set out in section 46 of the 1982 act that criminalises street prostitution. Given your responses to that line of questioning, I would like to know whether the Scottish Government is supportive of the repeal of that particular piece of legislation.

10:15

Siobhian Brown: At the moment, yes, but the Scottish Government feels that repealing section 46 on the offence of selling sex would require further consultation with stakeholders and communities, given the sensitivities and the complexities around prostitution. I can go on to talk about further work if you would like me to.

The Convener: We can perhaps come back to that if there is time. I am keen to let other members in. I will bring in Sharon Dowey and then Rona Mackay.

Sharon Dowey (South Scotland) (Con): Have you had any discussions with Police Scotland and the Crown Office on how an offence that prohibits paying for sex might be policed effectively and prosecuted, and, if so, what were the outcomes of those discussions?

Siobhian Brown: We engage regularly with Police Scotland, especially on operation begonia, and also with the Crown Office. I will bring Jeff Gibbons in, as he is the one who has those discussions.

Jeff Gibbons: We have regular contact and engagement with the police and the Crown about the use of existing powers and where the police might wish to enhance powers or gain new ones. That is part of the broader engagement on potential future legislative change. We are having on-going discussions that are predicated on the focus on providing a sustainable service to support any legislative intervention.

Sharon Dowey: Are you confident that, as the bill is drafted, we would be able to get prosecutions? We have heard from some witnesses that they are not supportive of bringing in criminalisation. I wonder whether we would be able to get statements from the women concerned. If we did not get statements from the women, would the police still be able to get a prosecution?

Jeff Gibbons: As the minister outlined, the supporting principle for that broader discussion around how such an offence would work in practice is subject to the consideration of the bill. As part of the strategic model, we are talking about what legislation we might require to address

the challenging demand element, but we have not got into detail about specific provisions in the bill.

Siobhian Brown: I know that the committee has also raised the issue with the Scottish Sentencing Council. We need the member in charge to say how that kind of thing is going to be fixed for the bill to be workable.

Sharon Dowey: Your letter to the committee on 23 June refers to the challenges in enforcing legislation that are being faced internationally. In particular, you say that the Scottish Government is "well aware of the challenges that the online aspects have posed in relation to enforcement and policing".

You spoke about the online aspects a wee bit earlier. Will you tell the committee exactly what you mean by the "online aspects" that would cause trouble for policing with the criminalisation of buyers?

Siobhian Brown: We all recognise that the digital and online landscape is a critical battleground in the fight against commercial sexual exploitation. It is important that the Scottish Government's approach to that area is adaptive and responds to changes and, at this stage, I do not feel that the bill addresses that.

I think that the committee heard from Police Scotland about how it would work operationally—it had 966,000 calls in one year—and how the police would manage to investigate every single call. As I keep saying, it is very complex, especially the online aspect. There is no magic bullet. The online situation is always evolving and we have to be on top of it.

The regulation of the internet is reserved to the UK Government, but my officials continue to liaise with it on relevant aspects of the Crime and Policing Bill, such as where it could block internet protocol addresses and things like that. Work is on-going between the Scottish Government and the UK Government on how we tackle that. In saying that, we could have a new challenge next week or the week after, but we are continuing to work on this.

Sharon Dowey: What are your views on the estimated costs of the bill that are set out in the financial memorandum?

Siobhian Brown: I think that I have touched on that. I have concerns that they are not realistic. We need to have more detail, especially with regard to the support aspect of the bill. I do not know how much that would cost; I think that the suggestion is that the money would come from the funds for the equally safe strategy, which have already been allocated. The member in charge must supply more detail if we are to work out how

much the bill will cost. We want legislation to be affordable and workable.

Sharon Dowey: Based on the Scottish Government's existing strategic work to tackle prostitution, approximately how much could the Scottish Government dedicate to delivering assistance and support?

Siobhian Brown: At the moment, we have committed just under £22 million through the equally safe fund in this financial year. That money is fully allocated to support services and so on. We have also funded a secondment to Police Scotland in relation to operation begonia.

Sharon Dowey: Earlier, you said that the right to support is not defined or fully costed. You also told us that substantial amendments to the bill would be required, and that there would need to be significant consultation. You have said that you have a neutral stance on the bill, although you agree with its aims. However, you have also said that there is not enough parliamentary time to get the necessary amendments through. Is it the case that the Government is supportive of the aims of the bill but is not minded to support it in this parliamentary session?

Siobhian Brown: We are supportive of the aims of the bill but, as I said, we need more detail. I am concerned about the timeframe. If the bill had been introduced a year earlier, there could have been time to deal with it. However, there are only 16 weeks left in this session. The cabinet secretary's Victims, Witnesses, and Justice Reform (Scotland) Bill and my Regulation of Legal Services (Scotland) Bill were fully scrutinised. Some 600 amendments were lodged at stage 2 of my bill, and it took a long time to get the bill into a form that could be passed by the Parliament. All I am saying is that the bill that is before us is not a simple piece of legislation. The issues are complex. We are dealing with people's lives here, and I feel that the bill needs more scrutiny. However, it will be up to the Parliament to decide on that.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning. I want to raise the issue of so-called brothel keeping, which is not addressed in the bill. We have heard from sex workers that the current situation makes them considerably less safe because they cannot work together. Are you aware of that concern? Is there any way around the current provision that would keep the women safe?

Siobhian Brown: We need to consider the existing policies and legislation in the area of tackling exploitation, and the issue that you raise is one that has been highlighted in that regard. Sex for rent—indeed, any exchange of sex for accommodation—is exploitation. Local authorities

have powers relating to housing and engagement with sexual exploitation, but these issues need more consideration and consultation. I know that officials are working with Police Scotland and the short-term accommodation sector on ways of raising awareness of sexual exploitation—I think that everyone is familiar with that work, which I know will continue into next year. Jeff Gibbons can elaborate on what is being done in that regard.

Jeff Gibbons: I can confirm that we have discussed with Police Scotland the operation of the existing legislation and related challenges around that, particularly with regard to short-term lets. It is part of the broader discussion that we have been having with Police Scotland about what legislative change might be required to support the on-going work in that area. As the minister suggested, we would look to bring something forward in that regard once we are in a position to ascertain what the scope of the legislative ask might be. There is an issue about our ability to respond to changing circumstances through legislation, which can mean that we are always catching up in particular areas, and we have to look at novel ways of addressing issues as well.

We are certainly aware of the issue that you raise, and it is part of our on-going discussions.

Rona Mackay: I know that a lot of work is being done on organised crime and human trafficking. Is that all part of the work that is being done in relation to brothels?

Jeff Gibbons: Yes. It goes back to the previous discussion around support networks. We are taking a holistic approach. It sounds like a cliché, but we are working across service providers in government, nationally and locally, which is a challenge because work in this area has not been as joined up as it could have been, which is one of the broader issues. That has certainly been a challenge internationally, because, although money has been provided, there has not been that linkage. We are doing exactly the same with regard to bringing together the human trafficking strategy and the serious organised crime strategy as we are doing in relation to support services. It is very much a focal point.

Rona Mackay: To go back briefly to women's safety in relation to online business, if the customers are criminalised, they will not give details that would enable women to screen them as part of their safety measures. Also, if they feel that they cannot give their personal details, especially now that most business is online, how on earth could they be detected and prosecuted? That is an issue that has been overlooked, and the bill absolutely fails to address it. I do not think that there is enough emphasis on the way that the landscape in terms of sex work has changed. Would you agree with that?

Siobhian Brown: I have raised those concerns previously. There is an evolving world online. We face challenges today that we did not face a decade ago, and there will be new challenges in 10 years' time. When the Nordic model was introduced in Sweden in 1999, the online business that we have now did not exist, so that was not taken into consideration. It is a huge worry that we have to be on top of these days.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning, minister. As others have noted, you have said that you agree with the principle in the bill of criminalising the buying of sex and that you do not agree with the quashing of offences, which are two of the main aspects of the bill. The bill partly meets the Government's position, but you have concerns, which you have outlined. My question is quite a general one. How do we square that circle, and is there anything that the committee can do to help?

What I am trying to ask, if I can be blunt, is whether you and the Government are open to suggestions that the committee will come up with in the stage 1 report on a cross-party basis. I emphasise that it would be on a cross-party basis, because I feel that this is very much a non-party-political issue. Is that something that the Government is open to?

Siobhian Brown: Yes, and the Scottish Government will remain neutral ahead of the stage 1 report. We want to hear the committee's views and recommendations after its evidence sessions, and I am looking forward to listening to the member in charge to see how she is going to address all the issues that have been raised. It is important to listen to all the evidence in order to see how the legislation can be adapted to ensure that it works and gains support. I am happy to consider what the committee recommends.

Fulton MacGregor: Thank you, minister; that is reassuring. One of the concerns that I have is that we continue to go back over this area again and again. We have heard from those with lived experience on both sides of the argument that they are tired of having to continually come in, speak to politicians and defend their position one way or the other, whether they want to continue to have the right to do sex work or whether they are against it and they want to see the bill passed. I am therefore concerned that a new approach might feel like starting again.

It is probably too early to ask, because we are at stage 1 and you have a neutral position, but how confident are you that the Government could take this forward—in other words, safely criminalise the buying of sex without continually having to revisit the issue—in a new parliamentary session? Has that crossed your mind?

10:30

Siobhian Brown: I cannot commit to it being done in the next parliamentary session—that would be up to the new Government. However, as I have said, we have never ruled out legislation. It is just about how we get it right. It might be quite traumatic for some of the women, whether they are for or against such legislation, to bravely give their evidence, but we need their voice at the table if we move forward with it, given all the complex issues, including how to deal with past convictions. That does not necessarily mean that they would have to give evidence in front of the public, on television and in front of committees—it could be in private sessions. I would want their voice at the table, because I want to hear from people with lived experience on how we can move forward with the best legislation. I hope that the process would not be as traumatic as having to give evidence to committees.

Fulton MacGregor: I have one final question. I appreciate that the question is as much for the member in charge of the bill as it is for you. In fairness, I will ask it to the member in charge next week, if somebody else does not do so beforehand. What discussions have the Government and the member in charge had as the bill has progressed or in its earlier stages? Have there been any discussions at that level to try to square the circle, as I mentioned earlier?

Siobhian Brown: We had a few meetings in the initial stages with Ms Regan, in which I raised quashing and the detail about support that I raised with you. Ms Regan thought it was up to the Scottish Government to provide that detail, but it is not; it is a member's bill, so it is up to the member to provide the detail and for everyone to scrutinise it. As I said, if I proposed a Scottish Government bill, I would expect scrutiny, and people would be asking me questions on detail. We have gone forward with the evidence sessions, but I have not had any requests for a meeting recently.

Katy Clark: I have a further question in relation to the potential new criminal offence. Do you agree that the central issue for this committee and for the Scottish Government is whether criminalising paying for sex is the right thing to do for society and the women involved? Do you agree that the issues around the difficulty of prosecution that were raised in evidence to the committee are very similar to those around other offences, such as rape and sexual offences, given the nature of those offences and this potential offence?

Siobhian Brown: Yes. As I said in my opening statement, we are supportive of the principle, but it is about how we do it and that we get it right.

Katy Clark: There are very low conviction rates for rape, but nobody suggests that that means it

should be decriminalised. Do you agree that the central issue is whether the act should be a criminal offence?

Siobhian Brown: Yes.

Katy Clark: I will ask a further question. You said that you cannot make a commitment to carrying the bill over to the next parliamentary session. However, surely the Scottish National Party Government should be making a commitment about what it would do in that session. If you take the view that there is simply not enough time to advance the bill in this session and that that time genuinely cannot be found, because of the amount of work that would be involved and because there are so many other bills—I have a member's bill myself—surely you should be making the case that this issue should be allowed to be carried over to the next parliamentary session? Is your role not to try to advance the bill as far as possible in this parliamentary session and, if, in March, the Parliament is genuinely in a position where the bill cannot be enacted, to make the case for carrying it over?

Siobhian Brown: I do not think that it is my role to push a member's bill forward as much as the Scottish Government can, because—

Katy Clark: It is a policy position.

Siobhian Brown: Yes, but I have raised concerns—there are elements that we agree with and elements that we want further detail on. It would be premature for me to be dismissive of Ms Regan's bill at this stage and to say that we will commit to carrying it over into the next parliamentary session. I am not against doing that and would be happy to do so if the SNP were in government in the next session, but that commitment would have to come from the First Minister. However, I can commit that there will be on-going work on how we can legislate in the future if this bill does not pass.

Jamie Hepburn: My question is a follow on from the answer that you gave to my question about what types of substantial amendment would be required. Minister, you mentioned the type of assistance and support that should be provided for in the bill. There has been widespread support for on-going support and assistance for those who are involved in the selling of sex so that they are able to exit the selling of sex. It has not always been clear precisely what that should constitute, beyond its having to be available evenly across the country. I take the point that it is largely for the member in charge of the bill to answer about what is intended, but do you have any sense of what that support should look like—perhaps informed by the support that is available through operation begonia, for example?

I have an associated question. We all understand that the provision would be predicated on trying to get women out of the selling of sex. However, a perspective has been articulated—including by those who oppose the bill and by one or two people who have given evidence who support the bill—that support should be available for those who are not immediately leaving the sale of sex. Do you agree with that as well?

Siobhian Brown: I do. We need more detail—one of the provisions in the bill is to support women who leave Scotland, and I want to have more detail on how long that would be for after those women leave Scotland. It is important that we get the detail of the costings.

Jamie Hepburn: Presumably it is not only the costings, but the specifics of what is intended.

Siobhian Brown: Yes. We need detail of the specific support as well.

Jamie Hepburn: I am sure that we will pursue that with Ms Regan when she gives us evidence.

Liam Kerr: Earlier, in response to Sharon Dowey, the minister expressed her concern that there was insufficient time to get the bill through, and she prayed in aid two other bills. This bill has 11 sections, one of which is the short title. The Victims, Witnesses, and Justice Reform (Scotland) Bill, as drafted, had 72 sections plus schedules, and the Regulation of Legal Services (Scotland) Bill had 93 sections and three schedules. It is my view that the Government has form: if it wants to get something through, it will. I note that we will now sit in February—we will not take a February recess—to ensure proper scrutiny of all the legislation going through.

Will the minister clarify why she thinks that this bill cannot be properly dealt with over the next 18 weeks? If that is about consultation—as she has alluded to—who has not been consulted?

Siobhian Brown: I appreciate the different numbers of sections in the different bills. When I said that I had concerns about it, I was alluding to the fact that, when we have evidence sessions, it is up to the Government or to members in charge to come back and say how they will address that evidence. A lot of issues have been raised during the evidence sessions.

I do not agree that the Scottish Government will just put legislation through. We take our time and listen to members. I hope that the member in charge will do that as well with her member's bill.

I have genuine concerns about the parliamentary timetable. We are all aware of the number of members' bills and Scottish Government bills that we are currently trying to put

through in the next 16 weeks—you said that it was 18 weeks, but I counted 16.

The Convener: I asked a question earlier regarding the provision in the bill to repeal section 46 of the Civic Government (Scotland) Act 1982, which relates to the offence of street prostitution. You gave a helpful response and indicated that you could perhaps offer more detail on that. We have a little bit of time in hand, so I would like to come back to that point. Could you expand on your previous response?

Siobhian Brown: Repealing the offence for selling sex in section 46 of the 1982 act would require further consultation with stakeholders and communities, given the sensitivities and complexities associated with prostitution. In general terms, a conviction for a section 46 offence is generally spent within a year at most, and it is not included in conviction information on any level of disclosure when it has been spent. I have a lot of detail on when a conviction can go into disclosure; I do not know if the committee is interested in me verbalising that, or perhaps sending it on.

The Convener: We have a bit of time, and I would be quite interested in that.

Siobhian Brown: That is fine.

Even in the unlikely scenario where a section 46 offence was deemed relevant by the police for the purposes of a level 2 PVG—protecting vulnerable groups—scheme disclosure, the individual would have the right to request a review of that or other relevant information before it is disclosed to an employer. Inclusion of such information is subject to a statutory test.

I need to reiterate that the new Police Scotland approach prioritises women's safety and routing them to support, as opposed to criminalising them, and convictions for such an offence are therefore less likely to be accrued, given the general policing approach to such behaviour. I can provide further information on that. The same approach applies if an individual is asked by someone, for example, an employer, to self-declare their convictions. A section 46 conviction does not need to be self-declared once it is spent, regardless of the time of disclosure or the role. A system of disregards could be considered, which would introduce a process whereby convictions could be removed entirely from ever having to be disclosed in the criminal records check. However, that would have to be developed for the bill. It could be considered, but it is not something that we have been doing any work on. That would have to be for the member in charge.

A level 2 PVG disclosure, which is commonly referred to as a "PVG scheme", is a legal requirement for people in a regulated role with

children or protected adults, such as a teacher, a nursery or day-care worker, a volunteer, a childminder, a social worker, a doctor, a dentist, a sports coach or an adult care-home worker. A PVG scheme shows any unspent convictions, certain spent convictions, any notification requirements, unspent cautions and other relevant information that is held by the police. Those who are on a barred list for work with children or adults or who are under consideration for inclusion on the barred list for work with children or protected adults, or who have been served any prescribed civil court order, are members of the protecting vulnerable groups scheme, and members of the PVG scheme are subject to continuous monitoring in that situation.

I can move on to level 2 from the barred list check. Do you want me to keep going, convener?

The Convener: I think that we have got the gist of it. I was not expecting quite that amount of detail—but that is helpful. The committee has been made aware that, although it might not quite be a pick and mix, some legislation is used while some of it is not. I am thinking about how we might consolidate a lot of it, with consideration to the provisions of the bill. I am interested in what legislation exists already and what the thinking is around the future of that existing legislation—and in how it would work alongside the provisions of the bill, should it be enacted. That was a helpful update.

We have a wee bit of time, and I do not know whether any other committee members want to come in. If not, I invite Ash Regan to speak at this point.

10:45

Ash Regan (Edinburgh Eastern) (Ind): Good morning. Operation begonia is the utilisation by the police and the Government of the existing laws that we have on prostitution, which we have had for some time. It seems to be working very well. Although we have laws that criminalise sex buying, such as the kerb crawling legislation, that is only able to target somewhere between 10 and 20 per cent of the whole market of prostitution. As the minister has picked up, prostitution has changed over the past few years and most prostitution is now happening off-street—so, indoors, in various different settings.

If the Scottish Government recognises that prostitution is balanced against women and girls—which it has done for more than 10 years and which the minister has repeated here today—that off-street prostitution now constitutes around 80 or 90 per cent of the prostitution market, and that no laws at all exist to combat the violence that the Government has said that it does not agree with,

this is surely a good opportunity for the Government to work with and support me to get the bill into law. That way, we can address the violence that the Government says that it is opposed to.

Siobhian Brown: One of the things that the member has acknowledged is the increase in online prostitution. If it is 80 per cent now—

Ash Regan: Not online, but off-street prostitution—indoors.

Siobhian Brown: Our discussions with Police Scotland and the Crown Office are about how the legislation would work operationally. That is where we need more detail, and we will be happy to listen to that detail as you come back from stage 1.

Ash Regan: I will press the minister here. You said that you support the principle of challenging demand and that you are opposed to violence against women; I have pointed out that there are no laws prohibiting that violence whatsoever. If we can get the bill into a position where the Government is happy with it, will the Government support and work with me to get it into law?

Siobhian Brown: It is a member's bill—it is your bill—so you will be doing the work to do that. However, I am happy to have conversations with you. As I said, we now have 16 weeks to go. I have several members' bills and Government bills to get through in the next 16 weeks, so I do not have a team at the moment that could work specifically with you or any member to get their bill through. However, if you lodge amendments yourself, we will definitely consider it.

Ash Regan: As Liam Kerr very effectively pointed out, this is quite a short bill, so I would imagine that there would not be anything like the number of amendments that we have seen on other bills that have gone through the Parliament recently.

Survivors have given evidence to the committee. The Casey report into grooming gangs, which the United Kingdom Government commissioned, recommended the removal of prostitution convictions for those who have been exploited in prostitution. Scotland's justice agencies echoed that recommendation very strongly when they gave evidence to the committee—in their view, it is very important that Scotland send a message that women should not be criminalised, and that that message be updated in law and not only in practice.

The minister has raised concerns in relation to the quashing aspect, and she is quite right to say that we have already had a discussion in private about the issue. I am very open to looking at other ways in which those convictions could effectively

be removed, not by the process of quashing but perhaps by another system—a pardons and disregards-type system, perhaps, which would achieve the policy aims but do so in a way that the Government would be more comfortable with.

The fact that the Government supports the principle of criminalising the buyer and not the women surely shows that the Government supports the majority of the bill. Would our coming to an arrangement that suits the Government—perhaps on pardons and disregards—satisfy it and allow it to support the bill?

Siobhian Brown: I would have to see the detail. At this stage, I am staying neutral and will not commit the Government to supporting the bill. Once I have the detail, I will consider it.

Ash Regan: Okay. Thank you.

The Convener: I think that Rona Mackay wants to come in with a final question.

Rona Mackay: Ms Regan, you acknowledged at the start of your questioning of the minister that so much of sex work is now off-street, indoors or online. Your bill, as it stands, reflects that. You said that the bill would be enforceable and workable with the detail in its sections—

The Convener: Ash Regan is due to come into committee next week, so that might be the opportunity to ask her that question.

Rona Mackay: That is fine.

The Convener: There are no more questions, so we will draw this session to a close. Thank you very much, minister and officials, for joining us today. We will suspend for a few minutes to allow for our changeover of witnesses.

10:50

Meeting suspended.

10:58

On resuming—

Pre-budget Scrutiny 2026-27

The Convener: Our next item of business is pre-budget scrutiny, which we commence today, focusing on prisons. We have one panel of witnesses. I intend to allow up to 90 minutes for the evidence session, and I refer members to papers 3 and 4. From the Scottish Prison Service, we are joined by the chief executive, Ms Teresa Medhurst; the deputy chief executive, Linda Pollock; and the director of finance, Amy McDonald. You are all very welcome, and thank you for your written submission.

Teresa Medhurst, have you found the funding for 2025-26 to be sufficient, and what are your organisation's main asks for 2026-27? If you are unsuccessful in your bid, what will the consequences be?

11:00

Teresa Medhurst (Scottish Prison Service): Good morning. Thank you for the opportunity to attend this evidence session on pre-budget scrutiny.

There were three elements to your question. First, on the challenges for this financial year, we had an increase in our budget between 2024-25 and 2025-26—an uplift of £45 million, which is 8.6 per cent. However, early in the financial year, other inflationary pressures in relation to utilities and the pay settlement meant that the increase was going to be insufficient, so we applied for additional funding and received an additional £22.5 million on top of the £45 million. In that sense, I would say that, over the course of the year, as things stand, we are managing within the revenue and capital budget.

My concerns relate to the degradation potential in the estate. Given the population pressures that we are experiencing, we cannot decant and carry out maintenance or other work that we want to do to improve facilities. Given the wear and tear on our buildings, that has the potential to store problems for the future. When people are incredibly busy just keeping people safe and focusing on being legislatively compliant, the ability to spend in the way that we normally would is significantly reduced.

So, we are managing, and this year's budgetary pressures have not been acute because of the additional funding that we received. We also made in-year bids for additional funding in relation to population pressures and our response to the fatal accident inquiry recommendations and action points that came out of the FAIs into the deaths of

William Lindsay—also known as William Brown—and Katie Allan. All that has been shared with the Government, and we are monitoring our spend against it as the year goes on.

On the funding profile for 2026-27, we will be seeking additional funds, mainly for pay and staffing. There will be changes in the contract for escorts, which commence in January, and HM Prison Highland will be completed in late autumn next year. However, we have also been working on what we call a prisoner pathway project, because we have seen an increase in the number of long-term prisoners coming into custody—around 600 in the past two years—as well as increased complexity. We have diverted resources into shoring up some of that work, but there is likely to be a requirement for more because, even in the past six months, we have yet again seen a shift in complexity.

Therefore, we have highlighted to the Scottish Government that we will require investment for a number of areas, including next year's pay offer, which is part of the two-year deal. Overall, because of the increased complexity of the population and the requirement for more focus on the pathway work with individuals in custody on rehabilitation and returning to the community, we will require more investment, not just next year but in future years. However, as yet, those are uncoded pressures.

If we are unsuccessful in our bid for funding, I will not have enough money to run the organisation next year. At some point, the funding will run out. I cannot see any area that we can cut back, particularly given the population pressures. We are doing everything that we can to maximise the amount of space, to provide support and to make changes in the operating day to ensure that we have staff on shift at the times that we require, in order to maximise the time that people spend out of their cell and to give them access to services and rehabilitation programmes. However, at the moment I can see nowhere that I can effect change or reform in a way that would ensure that we had sufficient funding for next year if we are unsuccessful.

The Convener: Thank you. My follow-up question is on the impact of the prison population, which you mentioned. The information that I have is that, on 5 November, the population was at its highest-ever level of 8,431. It would be interesting to hear a bit more detail on the impact of the prison population from a budgetary perspective. Can you provide a wee bit more detail on what increase in funding you would look for to allow you to continue caring for prisoners safely and humanely, considering the wellbeing of staff?

Teresa Medhurst: Unfortunately, on 11 November, the population hit another high, which

was 8,441. That happened on the same day as we started the emergency early release programme, so the spike was short lived. Nevertheless, it was concerning.

We see an increase year on year in social care costs, and that requires additional funding. Our ability to manage the population pressures across the estate means that we require our escort provider to put on additional escorts to move people around just to smooth out the areas where there are peaks and troughs. In addition, we have staffing complements for each establishment, which are agreed with our local unions, so we have safe operating staffing costs. We have to increase those complements when the population rises.

There are also other times when establishments might require additional staffing—for example, if there are incidents. I know that the committee has heard previously about drugs in prisons. Where we have a number of people who are under the influence, you can have 10, 12 or 15 people who require 15-minute observations, so we require additional staff to keep people safe.

There is variability in the staff costs. However, I am concerned that we are shoring up maintenance problems in the buildings. Although we have the staffing costs tied down, that is much more difficult.

Linda Pollock will be able to provide more detail on the prisoner pathway.

Linda Pollock (Scottish Prison Service): We have been working with an increase not only in long-term prisoners but in those who have been given an order for lifelong restriction. We are seeing more impact with regard to the support for rehabilitation courses for people who are moving through the system. We have been directing resource to work through some of the backlog that was built up during Covid, to support people with their programmes of courses to address offending behaviour and to support work on progression, which refers to how people can move through the estate so that we get maximum use from the open estate and can prepare them for return to the community.

We have been directing the work on that. As Teresa Medhurst said, we have been developing a pathway programme that will be individualised and risk-based so that we can respond to and support people individually. However, as you would expect, that requires a lot of resource and work. I also highlight the fact that, although the population level means an increase in requests for our staff, it also has a knock-on effect for our partners in the national health service and social work services, who have to respond to those increases in demand as well.

The Convener: Thank you—that is an interesting update, in particular with regard to orders for lifelong restriction. I know that it relates to the budget, but I think that, separately, we would be interested to hear a wee bit more about the pathway project by way of follow-up.

That has been helpful to understand the situation. I will open up to questions from members.

Liam Kerr: Good morning. I want to ask about the resource budget and will follow on from the convener's questions. Your submission says that you are

“operating at 107% of total design capacity”.

As you said, that might even have been superseded. Last year, you needed in-year resource funding of £22.5 million to address the utilities, the pay policy and the other things that you mentioned. As precisely as you can, can you tell us what extra funding—the minimum figure—you need in the resource budget to run safely next year?

Teresa Medhurst: We have done some high-level costing for the organisation and, as things stand, we think that we would require an additional £40 million. However, I caveat that by saying that we required additional in-year funding this year, and I would not discount the fact that we might require it again next year, depending on how the population shifts and changes, because that is currently the greatest driver in all our work.

Liam Kerr: Let us take £40 million as the base figure that we will be looking at when the budget comes out. What is the implication if that is only a flat-cash, or even a below-inflation, resource increase? What happens then? Would it pause the body-worn camera roll-out, for example?

Teresa Medhurst: There is potential for us to stop doing some of that work. However, that absolutely would not, in any way, shape or form, meet the budget pressure, because those are all small costs in comparison with a figure of that size.

I know that the committee has heard evidence from other parts of the justice sector on staffing costs and so on. We are in a position where our prisons are full. I cannot reduce staff and stop doing things because our prisons are full—I need the staff on the ground, doing what they are doing. We therefore have to run as we currently run, and such a settlement would mean that we would run out of money in-year. That would be the reality, because there is no other alternative within the year.

We could slow down or stop recruitment, for example, but it would mean that our prisons were not staffed to the levels that they should be staffed

to be safe. I cannot be in a position in which I am not staffing prisons to a safe level. None of those options—which, although they may be unpalatable, may be options for other partners—is available to us. We will, therefore, have to continue operating as we are. We will look at pockets of money that we might be able to save, but that will absolutely not enable us to meet the challenge.

Liam Kerr: I understand.

On the capital side, HM Inspectorate of Prisons for Scotland has identified HMP Greenock, HMP Dumfries and HMP Perth as having “extremely old infrastructure”. Meanwhile, the replacement prisons—HMP Glasgow and HMP Highland—are delayed and over budget.

Can you update the committee on the current position on HMP Glasgow and HMP Highland? How much extra are you spending to maintain the older prisons at an appropriate level? What does the capital figure need to be to allow you and the staff to do the difficult job that we ask you to do?

Teresa Medhurst: On where we are on HMP Highland and HMP Glasgow, the Glasgow business case was signed off and that contract commenced earlier this year. The project as it stands is on time and on budget in the first year of the operation of that contract, so we are still on target for 2028 with Glasgow.

11:15

With regard to HMP Highland, the contractor advised us a couple of months ago that there has been a slight delay in relation to precast concrete issues, but that will not delay the completion of the project next year—it is still due for completion then.

The funding that we have requested from the Scottish Government for next year covers both the second year of the project costs for HMP Glasgow and the final funding that is required for the completion of HMP Highland, with additional costs for us around—as you said—the investment that is required in those older prisons. We have five-year development plans for both HMP Greenock and HMP Dumfries—I would need to check on the position for HMP Perth—with costs attached to those.

The funding figure includes that work; the replacement for degradation of items that are used in prisons; costs for maintenance; and our digital infrastructure.

Liam Kerr: Finally—if you can answer this—what is the figure that needs to be in the budget for you to do all the things that you need to do in the next year?

Teresa Medhurst: I am jumping from one lot of figures to another, but the overall capital funding would be £462 million.

Liam Kerr: Thank you.

Jamie Hepburn: Good morning. I have asked this question of everyone who has come before the committee to give evidence for budget scrutiny, so I will ask you the same question. What has been the impact on your organisation as a consequence of the United Kingdom Government’s decision to increase employer national insurance contributions?

Teresa Medhurst: There are two areas in which it has had an impact on us. We received 60 per cent—as other parts of the public sector did—in relation to national insurance contributions. As a result of the additional funding that we have seen come into the organisation—

Jamie Hepburn: Before you come to that, I will stop you; perhaps I did not phrase my question properly. What has been the cost—the sum total?

Teresa Medhurst: Sorry—it is just over £5 million.

Jamie Hepburn: Please feel free to continue on the point that you were making. I wanted the top line first.

Teresa Medhurst: Sorry—my apologies.

Jamie Hepburn: No—I did not phrase the question very well. Please carry on.

Teresa Medhurst: Where was I? We got 60 per cent of the costs met. Because of the way that the organisation has been operating this year and the pressure that we have been under, we have been able to find the remainder of that cost in-year, but we have also had to find the cost in relation to the GEOAmev contract. Because of a failure in service delivery, we changed the contract payment method from the contractual arrangements that were originally in place to what we call pass through, which means that we pay for staffing to ensure that the staffing levels are up. We did not get the costs met for the GEOAmev contract. However, as I said, we are managing the in-year cost pressures so far within our budget.

Jamie Hepburn: There is a figure of £5 million. Approximately how many prison officers would that pay for?

Teresa Medhurst: I will ask Linda Pollock to work that out as we are sitting here.

Jamie Hepburn: If you do not have a figure right now, you can come back to us.

Teresa Medhurst: We will come back with it; I do not have it now.

Jamie Hepburn: That is absolutely fine.

I will ask another question. In your submission, you say that you need more funding for the private prison operator at HMP Addiewell as a result of contractual requirements. Can you set out, in as much detail as you can, the terms of the contract and what the additional cost will be?

Teresa Medhurst: It is above inflation. The question is probably better put to Amy McDonald, because I can never remember whether the measure is the consumer prices index or the retail prices index.

I see that RPIX—the RPI all items index excluding mortgage interest—is the inflationary mechanism that is used. For Addiewell, it is above the inflation rate. It is not an exact figure, because we have to consider the cost annually depending on that inflationary rise. In addition, there are service credits, so it is not the final figure, but the cost is in the region of more than £2 million for next year.

Jamie Hepburn: Is that a consequence of the contract that was signed in 2006?

Teresa Medhurst: Yes.

Jamie Hepburn: Is the operator not obliged to soak up any of that cost? Does the cost fall on the public purse?

Teresa Medhurst: With the contract arrangements, there is no way that we can shift the basis of that cost. We could ask the contractor to come to the table to renegotiate, and there have been efforts to do that in the past, but it is not something that a contractor will respond to frequently.

Jamie Hepburn: When does that contract run until?

Teresa Medhurst: It is a 25-year contract.

Jamie Hepburn: Is that to 2031?

Teresa Medhurst: Yes.

Jamie Hepburn: Okay, thank you.

Teresa Medhurst: Actually, no. The contract lasts longer than up to 2031, so that does not seem right.

The Convener: I think that the date is in your submission. Perhaps that can be clarified.

Teresa Medhurst: It is 2032.

Jamie Hepburn: I was not far off.

Teresa Medhurst: You were not far off.

Jamie Hepburn: Thank you very much.

Rona Mackay: Good morning. Ms Medhurst, you have spoken in the past about the complex nature of the prisoner population and, in particular, the fact that it is an ageing population. You alluded

to that in your first response. What are the budgetary implications of that?

When you appeared before the committee on 29 October, you spoke about how the scoping work on different models of care for older prisoners was developing. Do you have any more information about that and the budgetary implications in particular?

Teresa Medhurst: The social care costs are probably the only ones that we have. Obviously, there are implications for social work and the national health service, but we do not hold those costs, so I cannot provide the fullest information on that. It is a missed opportunity, because there are significant implications for other partners.

Since 2021-22, we have seen an increase of almost £1 million in social care costs, which is very concerning. Although the number of individuals who are supported in custody has increased from 44 to around 57, the issue is more the complexity of the care needs that we now see. Various surveys and pieces of research have highlighted the range of social care needs across the prison population, and the statistics do not reflect the actual level of need on the ground.

Rona Mackay: Does that £1 million fall to you to fund or to your social care partners?

Teresa Medhurst: We fund that cost—it comes from our budget. Regardless of the individual or their care needs, we face challenges because of the way in which care services are provided across Scotland, which means that we sometimes purchase care support from providers in the central belt for prisoners who are in the Highlands or other areas of Scotland. It is quite a complex landscape. The care that is provided is of an excellent standard, but it is more expensive.

Rona Mackay: Do you need to have specially trained staff to deal with that on a daily basis, outwith the social care support that those prisoners get? Do you need to have people with sufficient first aid skills? I know that all your staff will have a basic level of first aid training, but do you need to have specialist staff to deal with certain conditions?

Teresa Medhurst: We train our staff as prison officers: that is what they are hired for, and that is their purpose. Their main purpose is dealing with criminogenic need and risks, rather than others. We will provide additional training and support for those staff who work in particular areas or with particular types of individuals. They will source that for themselves: they are usually pretty good at sourcing additional advice and support.

Our NHS colleagues are incredibly helpful in ensuring that staff are provided with whatever information and/or training is required. However,

we do not train our staff to be carers, because that is not their role. Our NHS colleagues go beyond their NHS role to provide such care and support, because prison environments are challenging and different.

We have a lot of people in custody who will meet some social care needs, and who are often friends of the individuals concerned. That gives them a degree more dignity, as they will be dealing with somebody they know. We have provided training to them to ensure that they are properly supported and able to provide social care in what are challenging circumstances.

Rona Mackay: That is interesting.

Teresa Medhurst: That is done through a range of measures and supports, and it is probably more informal than formal.

Rona Mackay: I am looking at the wider, long-term future and the trajectory of more older people with increasing health needs coming into prison. Do you think that prison is the place for them? Should radical changes be considered in that respect? How might things develop if that trajectory continues?

Teresa Medhurst: We need to be clear about the purpose of prison and the format that is required for different population types. I understand that the people who come into custody have committed crimes and that there is a sentence associated with that. The question is what circumstances that sentence should be served in and what purpose it serves to have those people in the highest security facilities when that is not required. That could be addressed by having different types of facilities and/or different types of licence arrangements, such that the sentence would still be served, but perhaps not in the same conditions that apply currently.

Rona Mackay: Thank you—that was interesting.

Pauline McNeill: Good morning. Ms Medhurst, you have told the committee that you need £40 million in order to keep the Prison Service running, and that does not include what you might need in year. As things stand, what is the shortfall in the projected budget? Is the £40 million what you have asked for?

Teresa Medhurst: Yes.

Pauline McNeill: What is the proposal at the moment? Is there a shortfall in what the Government has offered?

Teresa Medhurst: We do not have a budget settlement yet. We have only done the preparatory work for the budget discussions—we have set out our high-level estimates of what we will require. However, we have no idea, as yet—

Pauline McNeill: There are no draft figures.

Teresa Medhurst: No—not as yet.

Pauline McNeill: I am interested in the capacity of the new HMP Glasgow, which is very important for the Prison Service. From what I understand, there is the design capacity, the target operating capacity and the extended operating capacity. I can see the figures for the current Barlinnie prison, which relate to the fact that you need to use the space, so there is doubling up and so on.

Are you able to tell me, now or later, what those figures will be in relation to the new prison? Its design capacity is 1,344, so there is a bit of extra room. Does that mean that there will also be, as is currently the case, a target operating capacity and an extended operating capacity?

11:30

Teresa Medhurst: At the moment, we are operating on the figure of 1,344. I suggest that it would not be wise to identify a figure for overcrowding in the new prison. Opening a new prison is always complex, and it takes a significant amount of detailed planning. That is particularly the case in moving from an establishment that is incredibly old and antiquated and that does not have a lot of digital infrastructure to a new site, where staff will have to work in a different way. They will need to become familiar with all the new operating systems, as well as the structure, because the layout will be markedly different from the layout in Barlinnie. All of that will take a lot of time, planning and preparation.

We are planning to have a phased opening. We have always opened a new prison in that way, to ensure that we know in each phase that the prison is stable and secure and that it is operating and functioning as it should before we move on to the next phase. At the moment, it would not be wise to plan to overcrowd the prison.

Linda Pollock: We have tried to simplify the figures. We were conscious that a lot of different figures were used across our establishments, but we have now changed those. There is still the design capacity, but we have taken away the target operating capacity; instead, we now have what we call the “assessed capacity tolerance”, which is the very maximum capacity that we can have.

Therefore, each establishment has a design capacity, which is what the population should be sitting at for us to be able to provide the best level of support and care for people. We can then—as we are doing just now—go round all our establishments to consider where we can double up and put people in on top of the design capacity, which is what we now call the assessed capacity

tolerance. That is our absolute limit—it is not where we want to be. To be clear, the assessed capacity tolerance, which is talked about a lot as an upper limit, is not a level that we want to be at; it is above the best operating level for our establishments. As Teresa Medhurst said, the design capacity of HMP Glasgow is the level that it will be built to support.

There were so many different numbers and terms being used that it was confusing. Therefore, we have moved to design capacity and assessed capacity tolerance, which is the higher number. That is above and beyond where we should be—it is the level that we can try to safely manage in the space that is available.

Pauline McNeill: Thank you—that is helpful. You are right. There is a table that has three capacity figures—design, target and extended—but you have done away with that system, and you now have the design capacity and the assessed capacity tolerance.

Linda Pollock: That makes the figures easier to use.

Pauline McNeill: That is helpful.

Finally, I have a question about a different subject—the Scottish court custody and prisoner escort service. I understand that you are retendering for the contract and that GEOAmeY does not intend to bid for the new contract. Will you provide an update on that process and whether there are any implications for the budget?

Teresa Medhurst: We are still going through the process to award the contract. Because that is being done in confidence, there is not much information that I can provide about it. However, the way that we have run the retendering process has gone well. We have factored costs for the new contract into next year's budget.

Pauline McNeill: I have a vague recollection that GEOAmeY raised concerns about the lack of budgeting during the Covid period, when prisoners were not moving or were moving in different ways. In addition, the justice system has changed to allow more virtual attendance. Have those factors changed the nature of the contract? Is that why GEOAmeY was not willing to bid again?

Teresa Medhurst: There were definitely factors related to the changing landscape. Although we tried to ensure that GEOAmeY was protected in the sense that we were able to provide it with funding during Covid, which meant that it could retain its staffing group, there were elements to do with how GEOAmeY operates. Staff attrition rates were fairly high, for example. However, staffing levels and performance have improved significantly and the contract is operating well. I could not comment on why GEOAmeY has

decided to step away—that is for it to do—but the lessons learned have been factored into the new contract to ensure that we do not end up in the same circumstances.

Sharon Dowey: Good morning. During our inquiry on the harm that substance misuse causes in prisons, we heard detailed evidence on the work that the SPS is doing to address the introduction of illicit substances into the prison estate. In your written submission, you mentioned drone detection technology. Is your current budget sufficient to address those threats? If not, what more is needed?

Teresa Medhurst: We have factored into our budget not only funding for technological solutions but funding to continue with the roll-out of grilles on the windows. Our assessment of the impact of that so far has been positive, so it is our intention to continue with it.

In our budget submission, we have factored in a figure for drone technology. However, the issue is that the technological solutions and landscape are shifting so quickly and in so many different ways that it is difficult to see where we will land. We have been engaging with various contractors in various parts of the sector, as well as with colleagues down south, to try to identify solutions that will be more effective than those that we have trialed in the past.

Sharon Dowey: Is what you have in the budget sufficient?

Teresa Medhurst: It should be sufficient for the next financial year, because we have still not landed on a final solution, if that makes sense. We do not have a technological solution about which we can say, "This is the one that will do it, and it will last for the remainder of the financial year." We are still in the scoping phase, but we have factored in costs that we think would equate with a technological solution.

Sharon Dowey: I have a follow-up to Rona Mackay's question. A report by Wendy Sinclair-Gieben mentioned the need to change the approach to managing a more complex prison population. In your response to Ms Mackay, you mentioned that you needed different types of facilities and different types of licensing. To be clear, people are in prison because they have committed a crime—they are there for a reason. However, there has been a rise in the complexity of the needs of the people who make up the prison population. At what stage are the conversations on the different types of estate that you need? I would liken the provision that is needed to a secure care home, because of the condition of some of your prisoners. Is there enough in your budget to enable you to progress that work? Are those conversations on-going?

Teresa Medhurst: I will bring in Linda Pollock on that point.

Linda Pollock: You will know from previous discussions that, in Scotland, with the Stirling facility and the community custody units, we have the model for women in custody, which is quite advanced. It is a different model, and we are keen to learn from it for other population cohorts.

We are working with Scottish Government colleagues on social care, in particular, and on whether there should be a different model for those prisoners who require it. We are also keen to consider young people. Although there has been an admirable decrease in the number of young people in custody, those young people have complex needs, so we are also working with the Scottish Government on what would be the right type of custody model for that group.

We have spoken previously about the rise in serious organised crime, and we have worked with some of our colleagues across Europe to look at their models. All of that is being factored into conversations with the Scottish Government on what future modelling could look like. From an estates point of view, that must go hand in hand with what the population will be.

We are seeing a continuous increase in population, which is particularly significant in long-term prisoners and those convicted of sexual offences. We are trying to model all of that. We have seen the recent statistics from the courts service on court backlogs, so we are looking to the future and thinking about what we know is coming, what we can anticipate and how we design a model for our estate that enables us to support people on their rehabilitation journey.

For the women and for the new prison in Glasgow, we have designed a different type of model that involves house blocks. It builds on best evidence so that we can have smaller cohorts and can engage more closely with prisoners, work with them in their groups and support them with their rehabilitation. All of that has been factored in, but it is very much a model that looks at what will be required in the longer term.

Katy Clark: I will ask about rehabilitation and pre-release planning.

We have high numbers of people in prison in Scotland. Teresa Medhurst, you spoke about the purposes of prison. If we accept that one of its purposes should be aiming to reduce reoffending, what more could be done on that, and what would be the budgetary implications?

We heard from Linda Pollock about some aspects of rehabilitation work, but we regularly hear from others that prisoners are unable to access programmes. In your written submission

you set out the impact of high prison population numbers on your ability to carry out such work. Will you say a little more about budgets and whether specific groups need to be prioritised for work on rehabilitation and planning for release? The evidence suggests that the more planning takes place, the less likely it is that there will be reoffending.

Teresa Medhurst: You have asked an interesting question. We often talk about our prison population, but there are different groups within that. We concentrate a lot on our long-termers, precisely because they are with us for a long time. Because of their risk profile, the costs for them are much higher. Equally, the short-term cohort are—to use an unfortunate term—what we might call revolving-door individuals, who continually come into and out of custody. We want to break the cycle that happens with them.

There is also the larger remand population. Because of the different legal position that they are in, and given the current funding situation, we would require additional funding to enable us to provide services and supports to them in the same way as we do for short-termers or long-termers. I am afraid that I do not have a figure for costs for that here but, if we were asked to do so, we could examine the likely costs.

Services and supports are available for the long-term population, and we recognise that we can and should do more for them. We have already invested additional money into the prisoner pathway work to which Linda Pollock referred. We have a programme of work that will run over five years. The position is complex because we are talking not just about our operational staff but about having psychology, health and justice social work input. The funding profile would sit with us for the vast majority of that work, but not all of it.

Perhaps Linda will say a bit more about our additional costs.

Linda Pollock: We have spoken previously about short-termers and the emergency release programmes that have been running. You will know from the previous tranches of emergency release that a lot of work has been put into pre-release planning, in recognition that it would happen more quickly for some people. We worked particularly with our third sector partners and throughcare supports to support people on those programmes.

Ms Clark, you will know the statistics for short-termers returning into custody. That number came down through our emergency release work, which we put down to our pre-release planning. Therefore, we are learning from that for the new tranches of early-release prisoners and for the support that we can provide more generally for

prisoners' re-entry into the community in the run-up to their release.

Katy Clark: That further information would be really helpful.

Can you say anything about the financial impacts on other areas of the criminal justice system of the failure to rehabilitate people while they are in prison? Have you done any work on that, or have you a view on it?

11:45

Teresa Medhurst: There are obviously impacts on every part of the system, even for long-termers. I am just trying to think through how best to frame my response to your question. For the shorter-term cohort, there are ways of looking at how often they have been in contact with the court system again, and that will have an impact on police and procurators fiscal. There might be a way of measuring the financial impact, but it would be fairly complex and we have not looked at that.

Katy Clark: My final question is about sex offenders. There has been an awful lot of debate about programmes for such offenders and whether there are effective ways to rehabilitate them. Can you say anything about how much resource the Scottish Prison Service puts into such work, the effectiveness of that work, and the budget implications should there be attempts to expand it?

Teresa Medhurst: We do not define our resource in that way—we do not separate our costs by population type—but you have raised an interesting point, particularly because we know that the growth that we are likely to see over the next few years will be in the numbers of prisoners convicted of sexual offences. In some respects, they require more intensive support in relation to programme delivery. However, the issue is not just about programmes; it is also about the multidisciplinary case management process that sits alongside those offenders and about the planning for their return to communities. Given the nature of their offences, for a variety of reasons, it is more challenging to plan for the return of such offenders to the community than it is to plan for the return of those in our mainstream population. All justice partners will require to spend a more concentrated amount of time considering that work, given that we know that there will be an increase in the number of such offenders.

Katy Clark: Thank you.

The Convener: I will bring in Fulton MacGregor, and then members can ask some follow-up questions.

Fulton MacGregor: Before I ask a question about fatal accident inquiries, I will ask about the

social care aspect, which you have spoken about and which I am really interested in. That is changing the whole shape of prison care. Do you have any idea what share of the costs of social care is being incurred by the Scottish Prison Service and how much is falling on the NHS? Is there any overlap? If so, can anything be done in that regard?

Teresa Medhurst: I can provide the costs of social care for the Prison Service, but I cannot provide the costs for the NHS. I am sure that, if NHS representatives were here, they would say that they are not social care providers, but I know that the NHS provides much of the input and support that those individuals require in relation to health conditions. I am not sure how the NHS would be able to distil those costs, but we would be able to provide our social care costs.

Fulton MacGregor: Will you provide the committee with those costs in writing?

Teresa Medhurst: Absolutely.

Fulton MacGregor: I should declare an interest in that my wife works at the state hospital, which is a high-security facility as well as a health-based one. Could other aspects of prisoner care move to that basis? That question is more about policy than about the budget, but how could such a move impact prison budgets?

Teresa Medhurst: It would depend on what kind of construct was developed. I should say at the outset that we are not social care experts; we rely on our partners to advise us on the types of services and supports that are required. We have criminal justice social work provision in prisons, but its area of expertise does not cover adult social care so, even within that construct, there is another complexity.

I could imagine a different type of facility that was much more aligned with care home facilities, and Linda Pollock mentioned earlier the different model of custody for women. Having a different type of facility would probably require a model and a staffing profile that differed from the existing ones in our prisons. We might also have to reconsider existing licence conditions for individuals, whereby their ability to move around and access the community, and potentially reoffend, is fairly restricted.

It is a policy question, so it is not for me to say. I could see that quite a different model would be better suited to those individuals' needs, while also ensuring that the sentences that the courts have passed are fulfilled.

Fulton MacGregor: I move on to my more substantive question. In your submission, you said that a resource increase is needed to meet

“Additional costs to support the implementation of the FAI Taskforce recommendations.”

Will you set out what that resource requirement is and what it covers, and the implications with regard to deaths in custody if you do not have the budget to implement those recommendations?

Teresa Medhurst: Since the determination and recommendations were delivered, the Scottish Prison Service has set up a task force with various workstreams, some of which are led by our own staff and others by expertise that we have seconded into the organisation from the national health service, the Scottish Government and other sectors. We have worked at pace to develop a range of responses that should meet the recommendations set out by the court.

That work has highlighted that different elements are involved. We have in-cell technology; the piloting of the ligature toolkit; and the revision and overhaul of our suicide prevention and anti-bullying strategies. All those things will have training requirements, and potentially resource requirements for staffing.

Although we have pursued all that work at pace and we will produce reports and updates to the timescales that have been identified, we will not, at that stage, be able to properly identify what the resource costs are likely to be. That work will have to be undertaken after completion of all the other work required to meet the recommendations.

The Convener: I will come in with a couple of questions. The first is on early release. New legislation has been enacted with regard to early release, as opposed to emergency release. I am interested in the budgetary impact on the Scottish Prison Service in facilitating the early release of prisoners under the new legislation. Is a rough figure available for that cost? There has been emergency release, and the on-going early release programme is under way now. I am interested to understand what the cost of that is to the Scottish Prison Service, if you are broadly able to share that with us.

Teresa Medhurst: I do not have a figure for that cost with me; I can write to the committee with that separately.

We would be able to identify the on-going costs to prepare for the implementation of the legislation—unless there were any additional costs, but I do not think that there were. I would be happy to write the committee separately to provide that information.

The Convener: That would be appreciated.

I come to my second question. During this morning’s session, we have spoken a lot about the size of the prison population, but we have not really dug into the distinctions between the

convicted population and the remand population. We have also spoken about long-term prisoners and the pathway project work.

I would be interested to know—again, from a budgetary perspective—if there are elements of the prison population that are what we might call budget intensive. Is it quite difficult to see the nuance of that?

Teresa Medhurst: It is not something that we, as an organisation, undertake to look at.

You mentioned orders for lifelong restriction. We know that the type of intense management that is required for that population will come with an additional resource cost, but, as I said, we do not have a breakdown of that. There are other portions of the population, but the response comes down more to an individual’s risk profile and individual needs. We have individuals who will be far more resource intensive to manage, either for the duration of their sentence or for particular parts.

We know that, over the course of a sentence, long-term prisoners are more resource intensive than short-termers. Short-termers will often decide whether they want to engage, because they know that they will be released on a definitive date. For those on remand, as I said, the legislative framework is slightly different, but that aspect is not something that we have ever been asked to consider.

The Convener: Staying on the subject of the nuances of the population, we know that community custody units have been an excellent model to introduce in Scotland. Are there any intentions to alter that model in the context of budgetary constraints? Alternatively, is it proving its value and, if anything, you would like to see it expanded in years to come?

Teresa Medhurst: We are still in the early stages of operating community custody units. We would want them to be open for at least a five-year period before reviewing them, to ensure that we understand the situation fully and give the units time to embed. It is a distinctively different way of operating for both prison staff and communities, so we want to be able to maximise the learning and identify thereafter how that can be taken forward, either wholly or in part, to other population sectors or segments across the organisation.

The Convener: Liam Kerr would like to come back in with a follow-up.

Liam Kerr: I have a very quick question. Earlier, Pauline McNeill asked about the new prisons. She mentioned HMP Highland, which you told me earlier was due to open next year.

Teresa Medhurst: It is due for completion next year.

Liam Kerr: Right. You said in response to Pauline McNeill that, at the point when it opens, it would be staffed with broadly the same people who are currently working at HMP Inverness. That will necessarily come with the training costs that you identified, but, if the prison has greater capacity, there will also need to be a recruitment exercise. All that will come with an extra cost, so has that figure been factored into the £40 million increase on last year that you require? If not, what is the extra figure that will be required to open the new prison?

12:00

Teresa Medhurst: The new establishment will require additional staff, because we are moving from a prison with 100 places to one with 200 places. We have done a lot of modelling, profiling and planning in relation to that, particularly with regard to how we would increase the staff complement in advance of HMP Highland opening. Dual operation of the two prisons will be required for a short time, and we are still working through the operational plans to determine that. However, the additional staffing requirement has been factored into the budget for next year.

Liam Kerr: So that is within the figure of £40 million.

Teresa Medhurst: It is in the fuller budget submission that we provided. On where the £40 million pressure sits, you could segment things any way that you want—is it the additional staff for HMP Highland or is it this or is it that? If we do not have that money there will be things that we cannot do, but HMP Highland will still need to open.

Liam Kerr: I understand.

The Convener: As members have no further questions, I will finish with one that has evolved from a wider bit of work that the Parliament and its committees are undertaking, to look at the activity that is under way in public sector organisations to meet our climate change targets and reduce emissions in specific sectors. I am interested to hear a wee bit about what has been undertaken in the Scottish Prison Service and whether you anticipate that additional resource or funding will be required to allow the work to continue.

Teresa Medhurst: We take our responsibilities for tackling climate change very seriously. That has been factored into the facilities in our new builds. For example, the closure of Inverness and Barlinnie prisons will have a significant impact, and the new facilities will meet all the new legislation requirements and targets. The organisation has on-going projects, which we require capital funding to support. As we have done for many years, we have factored that into

this year's and next year's budgets. For next year, we have increased the funding that we require to meet our climate change obligations.

The Convener: Where we are coming from in particular is the fact that there is a great opportunity in the new estate development but also the need to understand the challenges associated with the older parts of the estate. If there is a requirement for additional funding resource to allow you to keep the older parts of the estate wind and watertight—never mind to reduce their carbon emissions—it is important to know what the cost implications of that might be. That goes back to Liam Kerr's question whether the costs would be met within the additional amount of £40 million that you are seeking and which was quoted earlier.

Teresa Medhurst: You are absolutely right. As construction has taken place to develop existing prisons and build new ones, we have kept pace with changes in legislation and expectations, up to and including the recent opening of HMP Stirling, as well as Highland and Glasgow prisons. On HMP Inverness and HMP Barlinnie, I have no figures for costs. We have profiled the costs of the investment that is required to maintain the prisons up to the point at which we know that they will be replaced by Highland and Glasgow prisons.

The Convener: Thank you. It is helpful to understand that.

If there are no more questions from members, we will draw our evidence session to a close; it has been really helpful, so thank you very much indeed for joining us.

That concludes the public part of our meeting. We now move into private session.

12:05

Meeting continued in private until 13:00.

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