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DRAFT

Criminal Justice Committee

**Comataidh
a' Cheartais Eucoirich**

Wednesday 9 September 2026

Session 7



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CRIMINAL JUSTICE COMMITTEE
4th Meeting 2026, Session 7

DEPUTY CONVENER

*David Linden (Glasgow Baillieston and Shettleston) (SNP)

COMMITTEE MEMBERS

*Amanda Bland (Central Scot and Lothians West) (Reform)
*Maggie Chapman (North East Scotland) (Green)
*Stephen Kerr (Mid Scotland and Fife) (Con)
*Ben Macpherson (Edinburgh North Eastern and Leith) (SNP)
*Marie McNair (Clydebank and Milngavie) (SNP)
*Pauline McNeill (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Debbie Adams (Victim Support Scotland)
John Good (Law Society of Scotland)
Malcolm Graham (Scottish Courts and Tribunals Service)
Yvette Greener (Crown Office and Procurator Fiscal Service)
Tony Lenehan KC (Faculty of Advocates)
Anna O'Reilly (Children First)
Rhona Willder (Scottish Independent Advocacy Alliance)

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 9 September 2026

[The Convener opened the meeting at 09:31]

Decision on Taking Business in Private

The Deputy Convener (David Linden): Welcome to the fourth meeting in 2026 of the Criminal Justice Committee. I have received no apologies.

Colleagues will be aware that Alyn Smith has resigned as convener of the committee, following his appointment to a ministerial position. We thank him for the leadership and commitment that he has shown during his time as convener, and we wish him every success in his new role in Government. As deputy convener, I will convene meetings of the Criminal Justice Committee until such time as the Parliament has voted on a new convener.

We are joined by Yi-pei Chou Turvey, whom I welcome, and Ben Macpherson has joined the committee as a new member. I have known Ben for many years, and I know him to be incredibly thoughtful. I invite him to declare any interests that are relevant to the committee's remit.

Ben Macpherson (Edinburgh North Eastern and Leith) (SNP): It is great to be part of the committee, having served on previous versions of it during the past two sessions.

I draw members' attention to my voluntary entry in the register of members' interests, which states that I am on the roll of Scottish solicitors.

The Deputy Convener: Thank you.

Agenda item 1 is a decision on whether to take in private items 4, 5 and 6. For transparency, I say that item 4 relates to our consideration of the evidence that we will hear today, item 5 relates to the committee's approach to its pre-budget scrutiny, and item 6 relates to the consideration of correspondence. Do members agree to take items 4, 5 and 6 in private?

Members indicated agreement.

Courts, Delays and Workforce

09:32

The Deputy Convener: Agenda item 2 continues our series of meetings to enable members to gain an overview of key issues in the criminal justice sector.

We have two panels of witnesses today. The first relates to courts, delays and user experience. I warmly welcome John Good, member of the criminal law committee of the Law Society of Scotland; Malcolm Graham, chief executive of the Scottish Courts and Tribunals Service; Yvette Greener, chief operating officer of the Crown Office and Procurator Fiscal Service; and Tony Lenehan KC, vice-dean of the Faculty of Advocates. You are all incredibly welcome, and we thank you for your time. The panel is large, and a number of members are looking to ask questions, so we will try to keep our questions fairly brief, and we seek the same when it comes to answers.

I open with a question to all witnesses. It would be fair to say that welcome progress has been made in reducing backlogs in the summary courts; however, the picture is far less rosy in the High Court. In one sentence—or as close to that as possible—what single biggest factor contributes to the delays in that part of our justice system?

We will start with Mr Good and work our way along the table.

John Good (Law Society of Scotland): Thank you for having me. It is not rocket science; it is fairly basic. It is about resources: the amount of time, energy and funds that can go in. The system has inputs and outputs, and the delay between input and output is the issue.

A lot of work and some money are going into the system to increase its capacity. It is difficult to extrapolate from the modelling how that will work to significantly reduce delays over the next projected period, which is maybe four or five years. It is a question of good management, with proper resources being put in at the appropriate points.

I am not explaining anything new. That is how it works. It is civil service procedure—Government run and organised. It just needs the resources at the right time and in the right places, across the board—from the Government, policing, defence and advocate sides. It is a complicated equation, but it just needs everything to be joined up and resourced properly.

The Deputy Convener: Great. We will come back to that.

Malcolm Graham (Scottish Courts and Tribunals Service): Good morning. Thank you for the opportunity to give evidence.

In essence, the pandemic backlog has been cleared in numerical terms, and what we are dealing with now is not a backlog borne out of delays due to the courts being closed and the reduced level of service during that period. We have done exceptional work across the summary courts and, to a lesser extent, the sheriff and jury side.

The biggest issue is the increase in the volume of cases coming into the courts and the changing nature of the seriousness and complexity of those cases. That is compounded by the absence of, or very limited, investment in modernisation across the whole system. Attempts to invest in one part or another from time to time have resulted in bottlenecks being shifted from one place to another, whereas we need to take a whole-system approach. That is how victims and witnesses—the vulnerable people whom we serve every day—quite rightly view the system. We need to design the system to ensure that we get the best outcomes for all our users. That requires a system-wide approach and investment in modernisation that we have not yet had.

Yvette Greener (Crown Office and Procurator Fiscal Service): Good morning. For me, it is definitely a system challenge. It is not a challenge for just one of the organisations represented at this meeting or for any one part of the justice system. It is a challenge purely of volume. Overall, since 2024-25, there has been a 19 per cent increase in demand and, of that, 36.5 per cent relates to the High Court. That is purely due to the serious nature of the crimes that we are dealing with. Naturally, they take longer to progress, as they are more complex. There are also lots of historical sexual abuse cases, which, in some instances, have many complainers linked to them. That all adds up to a larger volume going through.

As Mr Graham says, we have cleared the backlog that came as a result of the courts being closed during Covid. However, we are currently dealing with the peak that comes from the parallel time-bar system, which will be running for the next six months. Members might be aware that measures under former legislation to extend time bars came to an end at the end of November 2025. That means that, for the next six months, some of those cases will still be running through the system. We also have new cases coming through that are on the traditional time bars. That means that there is double the work coming through at the moment. I go back to the issue being a system challenge because, even if we were to clear through that work rapidly, it would just put more pressure through to the courts and the advocates.

Tony Lenehan KC (Faculty of Advocates): Good morning. Simply put, the number of incoming High Court cases exceeds the trial court resources in the High Court.

The Deputy Convener: Thank you, Mr Lenehan. That was wonderfully brief and brings me on quite nicely to my next question, which is probably directed more to Mr Graham.

Mr Graham, in your 2 September letter to the committee, you say that you are

“expanding High Court trial provision to 26 courts per day from January 2027,”

which will mean that there will be 10 more courts than there were pre-pandemic. Realistically, how much of an impact will that have? With an ideal budget—in other words, if budget constraints did not come into play—what would be the optimal number of courts to really move the needle on the issue that Mr Lenehan just identified?

Malcolm Graham: The increase in the number of courts will have a limited impact—not no impact, as otherwise we would not be doing it. However, we are having to find the capacity to create those extra four High Court venues from within the efficiencies and reductions that we have achieved in other parts of the system. In effect, we are converting capacity from the summary courts and the wider sheriff courts and translating it into the High Court. That is not just a shift of the same people; it has implications for everyone who is sitting around this table and for others.

In our modelling, we projected what would happen if we put a larger number of courts in place, and we found that doing so would not make a huge difference. The reason is that the number of courts—whether the court is conceived as including the judiciary and the staff or just being the building itself—is not necessarily the limiting factor on being able to put stuff through the system. As Yvette Greener has just said, this is a system-wide challenge. If we are to increase the capacity of the system, it needs to be increased in all parts, and it is my contention that we have run out of road in dealing with this system challenge simply by increasing the size of the system itself. We would have to recruit an exorbitant number of additional people. More importantly, we would not have enough courtrooms—we would have to build new courthouses at scale and so on.

There are other ways of doing this, including by investing in modernisation of the whole system so that we have a much more efficient process, we are much clearer about how data gets transferred between partners, there is much more clarity in communication with victims and witnesses, and we manage cases in a much more modern way by using technology. We have seen lots of evidence of that in other jurisdictions. That, in combination

with sustaining or increasing capacity where and when it is required, will be the answer to how to tackle this challenge.

We talk—rightly, and to some extent negatively—about the consequences of some of the unconscionable potential delays that could come into the system. I will just point out that, according to the modelling that we have published, victims might be waiting up for to four years in High Court cases if we do not intervene and do something differently from the time that they report their crime to the time that the case is resolved. We need a different way of operating to prevent that from happening. With the combination of increased capacity, investment in modernisation and different management of cases, we will have a good chance of doing that.

I say that we talk about this issue negatively, but a lot of it has come about because of very positive changes that have been made in how society tackles certain systemic issues that have been around for millennia. The fact that the whole system is now tackling violence against women and girls, the huge increase in the number of serious domestic abuse cases coming into the High Court, which is a big shift, and the connection with serious sexual violence cases and certain non-recent cases should all be recognised as positive progress that has happened across Scotland in the past 10 years. We now have to deal with the consequences of that and ensure that we follow through on that good work when it comes to outcomes and resolution.

The Deputy Convener: That is great. I know that some of my colleagues have questions on resourcing and capacity for you.

Ms Greener, on page 2 of your letter of 26 August to the committee, you say that

“remand continues to serve a number of important purposes, with risk management being a key consideration.”

The committee is well aware that the remand population in our prison system is astronomically high, and I am keen to drill down and understand Crown Office thinking in opposing bail and seeking remand.

At last week’s meeting, Sheriff David Mackie told us:

“By virtue of human nature, a prosecutor or a sheriff will err on the side of caution. When the only information available is that an individual has a record as long as your arm, and not much else, it is hardly surprising that a decision to remand them is then made. If, however, the same sheriff has information that the individual is, in fact, already on a community payback order or a drug treatment and testing order, and that remand would undermine work that is already under way to enable them to lead a more law-abiding life, a different decision might be made. That is an illustration of an area where the information that is

available to the decision maker can be crucially important”.—[*Official Report, Criminal Justice Committee*, 2 September 2026; c 31.]

I am therefore keen to ask the Crown Office and Procurator Fiscal Service about the information that is presented to decide that bail test and what is being done to ensure that people are not being added to that ever-growing list of folks on remand.

Yvette Greener: First and foremost, the decision whether to remand or grant bail is one for the judiciary—it is not made by the deposes who represent us and the Crown in court. Naturally, we will make our case on the basis of risk, including on whether we feel there is risk of future offending, or risk to victims or witnesses. We have recently heard of cases linked to domestic violence where people have been out on bail and gone on to commit some horrendous offences that are currently going through the prosecutorial system. That needs to be taken into account.

However, in doing that, we also very much need to think about the length of the sentences.

There are very strict guidelines for the judiciary in relation to when remand should be considered. We will be applying the guidelines that are in place and balancing those against the risks to the community, the victim and any witnesses. Ultimately, the decision is for the judiciary.

09:45

The Deputy Convener: Mr Lenehan, you are on record as saying that there is scope for

“an innovative look at yielding more plea based resolution, versus trial resolution”.

What would drive greater use of early guilty pleas, and what has stopped that shift already happening?

Tony Lenehan: It would require skill to bring both sides together to deliver resolution. The process requires talented people, sometimes with a visionary or an agile approach, to see how compromise can still yield an appropriate result—that is, appropriate to X number of years—at the end of the day. At the moment, I do not think that the Crown Office fully takes on board the need for such an approach to case resolution.

The Deputy Convener: Ms Greener, is Mr Lenehan wrong on that?

Yvette Greener: In part he is wrong, but in part he is right, because, although we have not yet moved particularly into the solemn space, we can clearly evidence work that we have done, including across the justice system—because it is not just something that the Crown Office has done; it has been led by the judiciary.

I can also point to the success of summary case management, which has been hugely successful in the summary courts in reducing the number of citations of police officers and witnesses and reducing the costs, including of taking officers off the streets for that purpose. We have been getting resolutions a lot earlier—as my colleague said, that is what we need to be seeing—through early evidence disclosure and conversations and seeking the correct outcome.

We are now working on taking that success into solemn case management. That is why I said that Mr Lenehan is not incorrect in what he said, because we have not yet expanded the approach to solemn case management. However, that is the next step. My colleague Jim Brisbane is working on that as we speak, because that is where we want to go. The process is more complex in some cases, but the principles are the same: early case preparation and early engagement with all parties to seek the best resolution possible at the earliest stage.

The Deputy Convener: Mr Good, the programme for government makes provision for a legal aid bill. Can you quantify the link between legal aid deserts and case delay? Are there particular parts of Scotland where cases are stalling specifically because an accused or a complainer cannot get a solicitor?

John Good: We hear stories of what people call legal aid deserts. That situation is probably more prevalent in relation to civil cases than criminal ones, as much as it is still an issue in criminal cases. Criminal law practitioners tend to be a bit more parochial and build up a body of work near their clients, so areas where there are certain groups of population and courts running will attract practitioners. It is an issue in rural areas and because the number of courts has declined—a number of courts have been shut in the past decade or so. There are large areas, just geographically, where there might not be solicitors for clients to visit and consult in order to prepare for their cases.

There are a number of factors. On the financial aspect, legal aid work is not the most remunerative for qualified solicitors, and many solicitors would choose not to do it. Because of the payment system, you need to go through a volume of work, so you need to do as many cases as you can to make it as cost effective as possible. There is a pressure in a business sense, but there is also a pressure to get people to come in and consult and get proper advice as early as possible, and we are not dealing with the easiest bunch of people that we come across in society, sadly.

Therefore, yes, there are such areas. In previous jobs, I had to go to Kirkwall regularly,

because there were no solicitors willing to do legal aid work in Orkney. Where there is a small group of lawyers, they can choose to decline to do that kind of work, so it is a difficulty. Edinburgh serves a huge geographical area, right to the border—well, as far as Eyemouth—up to Edinburgh and further, and we cover that area, so it is quite a long way for people without their own means of transport to travel.

Resources are an issue. In the past 20 years, the number of solicitors doing criminal legal aid work has halved from 1,500 to about 800, which is a huge drop, because it is not an attractive form of practice for solicitors who can qualify and go on to do other things that are less challenging and more lucrative.

The Deputy Convener: I am sure that the committee will consider the legal aid bill in short order, because it is part of the year 1 agenda in the programme for government.

Pauline McNeill (Glasgow) (Lab): I am interested in getting more detail about reform, as a follow-up to the convener's questions. I know the work that is involved in clearing the Covid backlog, which is very welcome. Mr Lenehan has spoken about the agile approach. My question is for Yvette Greener. So that I can understand it as a layperson, are the Crown and the advocate depute free to make those decisions locally, or do they have to be signed off by someone further up if they are taking a plea?

Yvette Greener: We have not extended that into solemn case management yet. From the perspective of summary case management, it is for the depute to work with the defence agent to share the evidence early and work out, with them and witnesses, whether it is sensible to get an early plea or seek another outcome. Solemn matters are different, because we prepare cases. As before, we will look to indict, which is a process that is usually signed off and agreed to by principal Crown counsel before it can go ahead. Only at that point would we start work, which involves sitting with one of the advocates who would usually have been allocated to a case by principal Crown counsel. At the moment, we are working through what that might look like. It is about getting the best possible outcome for the public interest and for victims.

Pauline McNeill: I want to talk for a minute about reform. The criminal justice journey must be reformed end-to-end so that national justice organisations can operate a more coherent system. Malcolm Graham, I know what you have to say about this, which is that it is not just about getting more courts. Can you say in a bit more detail how you envisage reform and what it would look like to you? What needs to be done?

Malcolm Graham: We have made some good starts already. Summary case management was supported by digital evidence sharing. As Yvette Greener has already said, the ability to prepare cases and disclose material to the defence at the earliest opportunity has allowed for significant progress in the summary courts in all the things that have already been covered. We need to go beyond that. Digital evidence sharing is just one element of the digitisation of courts, which largely operate on a paper-based system. You could come into the criminal courts today and, with a few notable exceptions, it would look largely as it might have looked a hundred years ago, with bits of paper being passed across the table. That slows down the preparation of cases and information sharing. There is a requirement for people to re-enter information, which causes a barrier to cases being ready earlier. It sometimes results in unnecessary adjournments, which can mean that victims, witnesses, and professionals attend court when they could otherwise have been notified that they were not required.

Pauline McNeill: I will interrupt you there. I am interested in the High Court. I know that we have done a lot of work on solemn cases. Does that mean that the preliminary trial arrangement, where evidence is supposed to be agreed or not agreed, is not working?

Malcolm Graham: It has been acknowledged that there is room for improvement in the process. At the moment, the proposal is to take a similar approach to summary case management, noting that there are some significant differences in the High Court and in sheriff and jury cases. For instance, cases in the High Court are far more reliant on digital and forensic evidence, which will not be disclosed until it is available.

Pauline McNeill: Is that one of the barriers to forensic evidence being available?

Malcolm Graham: Potentially, it is. As we did with summary case management, we will work with everyone in the system to try to arrive at a better sequencing. Whether that requires new procedures or changes in process, guidance, or legislation, we are planning to work through it to try to improve the process and design of the system as a collective.

The other side of it is that it needs some enablement with a system-wide designed technology approach. I am not suggesting that we need one system for the criminal justice system. However, we need an approach to data standards and the different pieces of technology that organisations and people use that enables all the different users—including victims, witnesses, the accused and their representatives—to access the information that they need when they need it. At

the moment we have an ad hoc, disjointed approach to the technology. There has not been an overall vision for how the system should be designed.

We are proposing to now make that the case. A proposition is sitting with the Government to fund the development of a business case for that joined-up piece of work. I would strongly encourage that it be supported. It would enable every organisation to know when and where its different parts, in a modular approach, working to a common platform, can develop a system. In technology terms, that is not rocket science. It has been done in many other disciplines and criminal justice jurisdictions. However, we are significantly further behind than a lot of other jurisdictions and we need to make progress on that.

Pauline McNeill: I know that modernisation is needed and we will pass legislation to assist that but, to be honest, I am struggling to understand what that means in practical terms. Tony Lenehan, as a practitioner, what is your view on what Malcolm Graham has said? With regard to the High Court, is there something about the process that is not working?

Tony Lenehan: I do not think that there is much scope for improving the agreement of evidence. There is a lot of judicial pressure at the preliminary hearing stage to knock heads together to get the sort of evidence that should be agreed, agreed. In my experience, that does happen.

The things that Malcolm speaks about will definitely help. However, section 65 of the 1995 act says that the time from the preliminary hearing to trial should be 30 days. I am struck by the projection that that will go up to 945 days. We are not going to fix that by technology alone.

Pauline McNeill: Do you mean between the preliminary trial and the trial?

Tony Lenehan: Correct. That is 135 weeks. It is an eye-catching figure.

Technology will definitely help. I, as a bit of a dinosaur, have moved on to that, and it is a game changer. Once you get through that, it helps, but that is not going to change the 945 days in a significant way. A variety of things need to happen. I have no doubt that you will have other witnesses who sit where I sit and say that it needs investment, and it does. Making this work needs real investment, or it needs a different approach to resolving cases.

Pauline McNeill: Is it fair to say, then, that the modernisation reform is not going to be enough to bring us back within the law of the 30-day limit?

Malcolm Graham: I think that I have been consistently clear, in speaking about this issue to

previous committees and publicly in reports, that a combination of factors across the system will be needed to tackle these challenges. For me, reform and modernisation are not about implementing technology in isolation but about redesigning systems so that they are user led, efficient and focused on outcomes. That also gives you the opportunity to make all the other cultural and practice changes that we have spoken about.

Do not get me wrong—I agree with Tony Lenehan when he says that there will be a requirement for investment in capacity as well. To my mind, the longer we delay investing in modernisation and redesigning our processes, the more we have to push into short-term capacity to continue dealing with the challenges in the same way that we have been dealing with them. My contention is that the earlier we get on with investing in modernisation at scale, the greater the likelihood is that we will temper the excesses in some of the projections to the best effect.

At the moment, as you are aware, the Scottish Government is very clear about public service reform. Criminal justice reform is public sector reform, and investment in criminal justice reform up front will have a beneficial impact. I agree with you that it is one of many answers that we need to the potential impending crisis in isolation.

10:00

Pauline McNeill: That is helpful. Lastly, I want to ask Tony Lenehan about the position of the Faculty of Advocates. Are there any issues with a shortage of advocates, or is the profession equipped for the number of cases that the system has expanded to cover? Is there anything that you want to tell us about that?

Tony Lenehan: The funding for representation in the criminal High Court is referred to as schedule 2 funding. It came in back in 2005, and it is now worth 37 per cent less in real terms than it was then. That has an effect on the calibre of people who want to do my job. I am sort of trapped in my job now, but I am not sure that, if I were a younger man, I would have chosen this pathway. The effect on calibre has a knock-on effect on the treatment of witnesses and, in due course, on who sits as sheriffs and High Court judges, because there is a progression.

That is not an exciting answer, but the reality is that there is an effect from reducing the real-terms funding of the defence bar. We are not currently seeing the pinch points where there is nobody to do cases. We saw that following the Covid pandemic, but we are not seeing it just now. I say that because people would normally come to me, as an office-bearer, to say, "There's a problem in Livingston—there's no one to do it." I have—or the

dean of faculty has—the power to say to someone, "You're going to have to go and do that." I am not seeing that just now.

If all that happens is that the timescales drag out, there is not going to be a problem with the number of people doing it, because there will just be the same number of trial courts. If we increased the number of trial courts, which looks like it will have to be part of the solution, we would need more people. We need to attract capable people into the job if we are going to achieve all the impressive ambitions of the Parliament in the Victims, Witnesses, and Justice Reform (Scotland) Act 2025. Great ideas are nothing without resourcing and delivery, and we need those.

Pauline McNeill: Does the Crown Office want to say anything about that?

Yvette Greener: There is not much more to add. A clear part of the issue is resource, but it is resource across the system. To go back to the 30-day target, which we talked about, we are not going to get the digital forensics and cybercrime reports back in that time.

It starts from the very first point when we are gathering the evidence together, and witness expert reports need to go in as well. Resourcing is a system-wide issue. We ourselves provide advocates, as well as those that come in from wider advocacy as prosecutors in the courts. I know that principal Crown counsel is currently concerned about the volume of cases and the number of advocates that need to take those through the high courts.

The Deputy Convener: Given that the committee has a session later in private about pre-budget scrutiny, I suspect that Ms McNeill might come back to some of that.

I will hand over to Ms Chapman.

Maggie Chapman (North East Scotland) (Green): Good morning, and thank you for joining us. I will follow on from Pauline McNeill's questions on the tension between increasing capacity and changing the system. Malcolm Graham, you have said this morning and elsewhere that additional capacity alone will not solve the problem and that we potentially need a complete rethink. You have spoken about modernisation and some of the technological changes that need to happen. What would a radically different end-to-end system look like? If it is not what the system looked like 100 years ago, what should it look like?

Malcolm Graham: In process and culture terms, at present, everything in the system is back-ended, so it comes at the latest possible time. A good system would have everything coming at the earliest possible time. If we work through the consequences of having things available at the

earliest possible opportunity, to be shared across the system to enable decisions to be made and for cases to be judicially managed at an earlier stage in the process than they currently are, that could be a real game changer for our ability to administer a court system that can absorb at least the majority of the projected capacity that is coming through.

That will need a combination of investment and technology, which will support the development and delivery of different ways of working. The fundamental importance of that for confidence and public trust in the system, and for the service for the victims and witnesses who support and are subjects of the courts daily, cannot be overstated.

Some of the projected time delays clearly undermine any notion of trauma-informed justice, despite the efforts that we have been making on that. If we have some of the delays that are projected, justice will not, in essence, be trauma informed. We know that forcing people to wait for so long causes attrition in the system, that outcomes are less successful and that people's sense of procedural justice is negatively impacted. Ultimately, that has the potential to undermine the rule of law in the country.

Maggie Chapman: Yvette Greener, do you want to comment? If you could design an efficient system that reduced harm as well as processing cases more quickly, what would that look like?

Yvette Greener: We need to start with prevention. What is causing the amount and nature of the crime that is reported? The domestic abuse figures came out yesterday. Prevention starts with education, health and housing. The programme for government that was published last week would put more work into prevention and the starting point must be to prevent people getting into the system, first and foremost.

There should be a combination of things. I am pretty sure that there is a need for some modernisation of legislation, because some of what we are handling does not reflect how crime and modern society work. That takes me back to digital work. We have a system in which we have to certify copies, but pretty much everything that we deal with nowadays is a copy. As Malcolm Graham said, a huge amount of people are moving around. We need more digitisation but we also need to stop doing some things.

There is no one silver bullet. We need system-wide change and there will be multiple elements to that. There will be a long tail because, although the Government is focusing on prevention, we are still dealing with what is happening today and there will always be a lag in the impact of any change.

Maggie Chapman: Do we measure the impact of diversion and prevention as a system issue? Do

you have that information? Do we have a collective understanding of what we are seeing, rather than looking only at case disposal rates going up or down or at those things happening more quickly or slowly? Do we measure those other things and understand how they are working?

Yvette Greener: That is not something that we in the Crown Office measure. It might be visible through crime reporting and the like, but it is not something that we would use to measure our success.

Malcolm Graham: Some good data is available, and the Scottish Government and other bodies publish that. There is data on diversion and on non-prosecutorial disposal of cases. Those figures have steadily gone up and far fewer cases at the lower end are being registered in the summary court as a result of the range of other disposals that are now available to the police and the Crown. It is good news that they are dealing with things in a way that is appropriate to the level of offending.

That has happened at the same time as a huge increase in serious cases. You cannot compare one with the other, because of the complexity and timescale of some cases. You can do three or four summary cases in a court in a day, but the average High Court trial takes six days, with a commensurate number of staff involved in that.

My final observation is that international evidence clearly shows that having an effective and timely criminal justice system is a key part of any preventative and interventionist approach to tackling crime and positively enhancing other social outcomes in a nation. The opposite is also true.

Maggie Chapman: That is helpful.

Tony Lenehan, you spoke about the quality of people who are able to negotiate and deliver earlier resolutions. How would we know if reform is actually reducing harm rather than merely getting people through the system more quickly?

Tony Lenehan: On the abusive practices that are, sadly, widespread, we need to focus on having every Scottish man understand better that, nowadays, with modern changes in policing and a move towards multicomplainer cases, in which the conviction rate is 85 per cent, the consequences of such actions are likely to be a very long time in prison. I think that a lot of offenders do not understand that that is what is coming to them.

Education would therefore be a big part of it, because the dominant case type just now is a domestic abuse multicomplainer case. Such cases are not solved by forensic evidence, and they are not cases in which people easily plead guilty. There is a sort of taboo, it seems.

People who come to the High Court are bad decision makers. That is what brings them there. Trying to get them to understand the advantage of a good decision in resolving a case and all the benefits that come from that is therefore very difficult, and talented and experienced people are needed to make that work.

The biggest thing is the message of having better education, and working with young people in particular, because I see distressingly many 17, 18 and 19-year-olds with an entrenched pattern of abusive, including sexually abusive, behaviour. Talking about choking and the like, or violent pornography, is a squeamish conversation to have with 15, 16 and 17-year-olds, but there needs to be more of that, so that people—including young ladies—understand better that they do not need to consent to those things, because that is the route to disaster. We see that in case after case after case. It is mirrored by the observations of Rape Crisis Scotland and all the agencies that help on the victim side. It is worryingly widespread, and more needs to be done to let people understand that that leads to their meeting someone like me in due course, and that 85 per cent of them, by and large, will get long terms in jail.

Maggie Chapman: That comes back to what we were talking about earlier, on how to ensure that the whole system is trauma informed and genuinely well informed about the limits of good and bad behaviour and where those go.

John Good, I come to you on a similar question. From your perspective, given the limitations on the capacity for solving the problem, what areas do we need to look at reforming?

John Good: The Law Society is helping generally in recruitment. We are also part of a scheme to bring education into schools, to try to engender an understanding of and empathy with the criminal justice system. Funding has recently been added for traineeships, and additional trainees are being recruited right now.

By addressing the input part, we are trying our best to encourage people to practise in that sphere. It is an interesting, challenging and useful part of society, which needs to be properly funded, properly respected and properly supported. We are trying our best to do that, in conjunction with all the other partners that are involved. That is very important.

We have all mentioned education, I think. We should look at early years as well. There has been a template for decades about early intervention, violence reduction, health and welfare, education, housing et cetera. We know where our clients come from. Generations of them repeat the same issues. It is still a question of trying to control the input as best we can.

For people who are involved in the kinds of offences that Mr Lenehan deals with, which are a growing aspect of court prosecutions, a combination of social media and digital communications is leading to more prosecutions being possible, because they are all forensically identifiable and evidenced. That is creating almost a perfect storm of young people getting involved in things in which they should not be involved, which are then evidenced.

Maggie Chapman: So—

The Deputy Convener: Ms Chapman—

Maggie Chapman: We need to move on.

The Deputy Convener: Yes, I am going to move on to other colleagues. I call Ben Macpherson.

10:15

Ben Macpherson: Good morning, and thank you for your candid evidence so far.

I have two main areas of questioning, the first of which goes back to what you have said about investment to meet increasing demand as well as the complexity—and implementation of—recent legislation, including the 2025 act. It would be helpful for us, as we move into pre-budget scrutiny—and more generally for the Government and the wider Parliament—if we had an indication of the amount of resource that would make a difference with regard to personnel, and the technological investment and any other capital investment that might be required for physical assets, whether it be more buildings or whatever. We understand if you cannot give us that information today or are not able to state anything on the record now but, if that is the case, perhaps you can follow up with the committee on that.

As we question ministers and others in the weeks and months leading up to the budget, it would be helpful to have an idea, whether for one financial year or several, of what you need to make the difference and meet the demand, the need for continued technological improvements—noting the efficiencies and changes that have already been made—and the implementation of acts that have been passed by the Parliament. If you have anything to say about that now, I would welcome that, but I would also understand if you wanted to follow up on that.

Malcolm Graham: I am happy to try to answer that question in part. As the deputy convener has said, there will be a pre-budget scrutiny evidence session, at which we will be in a better position to go into more detail on the annualised budget cycle.

With regard to investment for modernisation, there are two points to make. First, according to an

outline business case that the SCTS has developed, the high-level framing of which has been submitted to the Scottish Government, we will need investment of £62 million over the next five years to develop a revised approach to managing criminal cases from the courts perspective.

Alongside that, I have been leading work with other justice partners on developing what we call the joining up justice programme—that is the modernisation that I have been speaking of. There is no plan from the Scottish Government in that respect; it is right that the system convenes and makes propositions to the Government, and the Government is a key part of that activity. We asked for £2.5 million this year; in May, we made a submission to the Scottish Government's £30 million invest to save fund, which the Cabinet Secretary for Justice and the First Minister made available for public service reform programmes. We are now sitting in the second week of September, talking about annualised funding, and I do not have a clear answer yet to the question whether that funding will be available for this year.

I do not think that that is good enough, and I have said as much to the cabinet secretary. If we are spending any money in year on developing a business case for doing this sort of thing across the justice system—in this case, recruiting people—we cannot hear the result in September and be expected to spend the money in year. Indeed, a similar thing happened with other matters last year.

On a broader point, £62 million for the SCTS might sound like a lot of money, but how important is the criminal justice system as a piece of national infrastructure that underpins the rule of law, the very democracy that we enjoy and the safety and security of the nation? Let me draw some comparisons with investment made in other areas—and these are from the published figures that go regularly from the Scottish Government to the Parliament's Public Audit Committee. We spent £277 million on the social security information and communications technology system and £140 million on Scotland's national census system; the Scottish Government has spent £64 million, I think, on its own Oracle finance and human resources system; and there are various other things that I could mention such as the more than £300 million that has been spent on the national health service digital front door.

Those issues are all hugely important, but I contend that we need to invest in the criminal justice system at a similar scale, which will need some strategic perspective and preparation. I am disappointed that, although initial conversations with the Government about the need to get that investment up and running this year have been

positive, they have not yet resulted in any conclusion.

Alongside that point, we need, as we have said, to sustain and continue to grow the current services. The public service reform agenda makes it clear that the size of the workforce in public services should reduce. Set against the pressures that we have already laid out, that will be challenging. The spending review that was published in advance of the election makes it clear that the SCTS will get a significant real-terms reduction in our budget for next year. Something does not square up, which is why I am making a big pitch for a requirement to invest in reform and modernisation. No matter how much we make the call for growth in capacity and additional resource, that will not be the answer to the problem, and, in any case, I do not think that we will necessarily get that growth.

Ben Macpherson: Thank you, that was most helpful. Yvette Greener, do you want to add something?

Yvette Greener: To put the spending review in context, it requires us to drop more than £6 million from our budget next year, which is the equivalent of 100 members of staff. We are expected to do that next year. We had a plan for that and we still have a plan, but that plan must be set off against an increasing number of cases. We are a demand-led organisation and we cannot control what comes at us, which makes meeting that requirement incredibly difficult. If we are kept to that requirement, we will need to make some quite challenging decisions. That will all come through as we go through pre-budget scrutiny.

We have started conversations with our exchequer colleagues, because the Crown Office budget is set separately from that of the wider justice portfolio budget—it is not done through the Cabinet Secretary for Justice. We are in direct conversations about what the budget might look like and what challenging decisions might have to be made. Unfortunately, that could have impacts that we do not want on our ability to provide a proper service to victims and witnesses.

There are also elements of legislation that are unfunded at the moment. There is a lot from the Victims, Witnesses, and Justice Reform (Scotland) Act 2025 that has still to be implemented, whether that is ongoing work on evidence on commission or the sexual offences court. That all needs to carry through as well. As we have said many times, legislation does not come free. If you want to truly meet the intent of something that you have done, some funding will need to be allocated—we have been clear about that since we started the conversations on this issue in 2023.

Ben Macpherson: We look forward to receiving any figures about that in due course.

Mr Lenehan, do you want to add anything on that, or based on the points that you made earlier?

Tony Lenehan: About funding?

Ben Macpherson: Yes, or about personnel and capacity.

Tony Lenehan: To make things work, we need good people doing the work. There are ongoing cuts in the amount that legal aid is paid at. You will understand that legal aid in the High Court is paid per unit of work. I do not get a fixed level each year, or anything like that; if I earn more, it is because I do more work. There is no reason to suggest that simply returning to the pound of 2005 would be a fair way to treat people who work hard and are an important part of improving the journeys of witnesses, victims and accused people. I am not sure that I have ever seen the justification for continually paying less, because if you keep paying less you will get a poorer quality of worker. From my perspective, capital expenditure does not matter, but the quality of the worker does.

Ben Macpherson: That is very helpful. Thank you.

May I ask one last question, deputy convener?

The Deputy Convener: Yes, of course.

Ben Macpherson: The previous responses contained a lot of comment on the additional demands of the Domestic Abuse (Scotland) Act 2018. Do you also want to express anything about the demands and resourcing requirements relating to the number of organised crime cases that have been through the system in recent years or are currently outstanding, and about the challenges that we face in parts of urban Scotland, including in the constituency that I represent in the Parliament, due to the growing levels of serious criminal activity from a small but very challenging minority of young people?

Yvette Greener: I will not pretend that I am over all the detail of those cases, but what you have outlined is crime that is much more cross border, that is much more complex, and that can be a lot more international in nature. A few weeks ago, I spent time with some of the serious organised crime prosecutor teams on cryptocurrency fraud. That area is mind boggling in terms of the different levels and channels you go through in trying to identify everything. That in itself makes it much more complex to get a complete case to the point of prosecution and to take that case successfully through the system.

I am happy to write to the committee with full details on serious organised crime. Much has been in the press on such cases, particularly in the

Glasgow area, but I am happy to come back with more detail on that and on where the crimes that have been reported to us are being committed.

Stephen Kerr (Mid Scotland and Fife) (Con): That last set of answers to Ben Macpherson's questions is deeply concerning to me, if I have understood correctly what the witnesses were saying.

Malcolm Graham, you produced the criminal courts modelling paper, which shows, as I think Tony Lenehan said, that, even with additional courts, the delays get longer. You said that we need a systems solution, and £62 million is a figure that you came up with from somewhere as an initial investment in the creation of a case for further modernisation.

I do not really understand the answers that you gave to Pauline McNeill. That is probably no reflection on you, but I do not really understand, or feel that I can get my arms around, what we are talking about.

You then said in answer to Ben Macpherson, "Oh, by the way, we are going to have cuts next year." Is that what you said?

Malcolm Graham: I said that the Scottish Government's spending review projects that the real-term budget of the SCTS will reduce in a material way.

Stephen Kerr: Right, so that means cuts. You are expecting that your budget will be cut next year.

Malcolm Graham: That is what has been heralded in the spending review.

Stephen Kerr: You have asked for £62 million of investment. You specifically asked for £30 million in order to begin the work of creating a business case.

Malcolm Graham: The figure of £2.5 million was asked for this year.

Stephen Kerr: What was the £30 million?

Malcolm Graham: I do not think that that was a figure that I referred to.

Stephen Kerr: Did you not? Okay, forgive me.

So, you asked for £2.5 million. You have not had that. What specifically does the £62 million get for us, then?

Malcolm Graham: It will replace the 20-year-old criminal case management system, which runs and supports the Scottish courts every day. It will allow us to redesign that system as, I hope, a platform that can digitally link, and provide a different way of managing, all the data flows and information across the criminal justice system in the future.

Stephen Kerr: Does that meet the need for end-to-end system change that you talked about? Is the investment for that purpose or to support capacity?

Malcolm Graham: It is part of that change, but only for the SCTS element. At the moment, I cannot put a figure on what we would need for the wider criminal justice system. We have asked for the £2.5 million to develop a full business case for that—to get people in to work collectively to ensure that we are doing it across the whole system.

Stephen Kerr: When did you ask for the £2.5 million?

Malcolm Graham: We made a submission for that to the Scottish Government's invest to save fund in May.

Stephen Kerr: You did that in May, and it is now September, and you have not had any conversations about it since.

10:30

Malcolm Graham: I have had conversations about it, and I have had an indication that it will not be supported through that means. I am still in conversation with senior officials and the cabinet secretary about whether we can find another way to progress it.

Stephen Kerr: Which cabinet secretary are you referring to?

Malcolm Graham: Mr Gray—the Cabinet Secretary for Justice.

The Deputy Convener: Will you share a copy of the request letter with the committee, please?

Malcolm Graham: Sorry? A business case was submitted to the invest to save fund, and I subsequently wrote to the cabinet secretary and met with him at a point when we did not appear to be getting an answer in what I felt was a reasonable time.

Stephen Kerr: I think that the deputy convener is asking if we can have copies of that correspondence.

Malcolm Graham: Yes, absolutely.

Stephen Kerr: That will be very useful. However, this is very alarming, because here we are talking about having a trauma-informed justice process, when the process is dramatically failing people, particularly women, and you are saying, "Oh, yeah, we've asked for £2.5 million to do an outline business case but we've been told we're not going to get that, and we're going to have real-terms cuts in the system next year." The mind boggles. What was all the court modelling stuff about, then? Is it just a vanity exercise? Is it just

drawing sandcastles in the air? What was it all about? This is going to cost money, is it not?

Malcolm Graham: The court modelling presumes that we uplift the number of High Court venues by four, which we will do during the course of this year. As I have explained, we are doing that through the capacity that we have created from other parts of the system—

Stephen Kerr: Yes, but you want—

Malcolm Graham: The things that we are talking about for the future—

Stephen Kerr: But you have also put the number of courts down as 26. That would require more money, right?

Malcolm Graham: Yes.

Stephen Kerr: That is the bottom line.

Malcolm Graham: Yes.

Stephen Kerr: You have a budget for 16 courts, and you are currently operating 22 on that resource. The figure of 26 is a potential figure, but that is about capacity only—it does not address the system.

Malcolm Graham: This is just about increasing the number of courts, and you are right that, each time we do that, it costs more money.

Stephen Kerr: This is very useful. It is an insight—an under-the-bonnet look at things that is quite disturbing.

Yvette Greener, from the answers to Ben Macpherson's questions, it seems to me that you are the bottleneck in all this. Do you agree with that?

Yvette Greener: No, I do not.

Stephen Kerr: I am looking at the Government's own report, "Journey Times in the Scottish Criminal Justice System 2024-25", and the biggest blockage with regard to sexual cases in Scotland is the Crown Office and Procurator Fiscal Service, but you have said you do not agree with that.

Yvette Greener: I said no, because, although we are sitting on cases, I would not say that we are the blockage at all. It is only right for an independent prosecutorial system to give full consideration before putting a case through for indictment and then into the court system. It is absolutely right that we do that in the most comprehensive manner possible in order to ensure the best outcome for victims.

There is the issue of the sheer volume of cases. I spoke earlier about the uplift in High Court cases, the vast majority of which are sexual offences cases, which take so much longer to deal with than other cases. That is compounded by the fact that

we are dealing with the parallel time bar for the next six months, which is putting added pressure on the system.

Stephen Kerr: Do you have a capacity problem, then? Is that a fair statement?

Yvette Greener: The Crown Office has grown in recent years—do not get me wrong. Our resourcing level has been increased, and we have received additional funding from the Government to deal with the time-bar issue and Covid deaths.

Stephen Kerr: Is that limited funding?

Yvette Greener: Yes, we are due to start to lose that from the next financial year.

Stephen Kerr: When you said that you were going to have cuts in the budget, were you referring to that money, or will there be cuts on top of that?

Yvette Greener: I was referring to a number of things. There will be cuts to the funding for the time-bar issue—we will lose half of that. We also have natural efficiency targets—even for this year, we have a self-imposed efficiency target of £5 million—so there is not much left at the bottom of that pot for us to go for. There are wider court recovery reductions, too.

That does not take into account any potential pay rises for our people. Pay has been settled for this year, and we have modelled pay growth at 2 per cent from next year onwards, but we do not know what it will be, due to, for example, inflation. Pathology and mortuary services represent a major cost within our resource budget, aside from people, and those services not taken into account, either.

Fundamentally, even a flat-cash settlement is a cut, and we are expecting to lose some of the additional funding that we were given.

Stephen Kerr: Phew. That is very shocking stuff, given that we are trying to speed things up and reduce journey times. Both of you seem to be saying that you are facing cuts that will probably further lengthen journey times and slow progress.

You have got reduced resources, reduced capacity and none of the system investment that Malcolm Graham mentioned. It does not add up, at least in my head. In terms of public policy strategy, I cannot get my head around it.

Can I put a question to John Good, convener?

The Deputy Convener: I can give you a couple of minutes, Mr Kerr.

Stephen Kerr: Is the legal aid question, which Tony Lenehan referenced in relation to the work of the advocates, not even more acute for your profession?

John Good: It is.

Stephen Kerr: It is not being resolved.

John Good: There was a partial—

Stephen Kerr: When does the 13 per cent increase kick in?

John Good: It is coming in in stages. Some of it has started, and there will be a further—

Stephen Kerr: It started in September, did it not?

John Good: I started practising criminal law in 1999, which was the year that fixed fees were introduced. That is similar to piecework for factory workers. It is about how many units one can produce each day. The fee at that time was £500. It subsequently fell below £500 because of cuts, and it has now increased again.

However, the position is similar to that of High Court fees in 2005. There has been a 30 to 40 per cent real-terms reduction. The amount of solemn work that we do has increased significantly, and the payment scheme has changed to unit payments, as Mr Lenehan said, so we are back to a somewhat more piecemeal way of working.

The types, complexity and scale of cases are increasing because of, for example, advancements in technology and prosecution techniques. It does not make sense. Our cases are getting larger, more complex and lengthier, but we are receiving a fixed amount of money to deal with them.

Stephen Kerr: I think that I know the answer to this question, but how does that affect the availability of solicitors to do the work?

John Good: We have suffered. When I started in 1999, nearly 1,600 registered solicitors were practising criminal legal aid. There are now fewer than 800.

Stephen Kerr: Ooft.

John Good: Working out the impact of that is a simple piece of arithmetic.

Stephen Kerr: What is the knock-on effect on journey times?

John Good: It means that we cannot expend the time because we simply do not have it. We cannot invent time. We can do only a finite amount of work every day, even working 12 to 14 hours a day, and we have fewer solicitors. The profession is becoming less attractive, and payments have not kept up comparatively with other—

Stephen Kerr: It all compounds the delays. The wheels of justice are very, very slow.

John Good: It seems like that. From the Law Society perspective, we are very keen to oil the

wheels a bit better, and we support as many younger lawyers as we possibly can to try to come into the profession. However, as Mr Lenehan said—

Stephen Kerr: But it is not very attractive, is it?

John Good: It is not the most attractive profession. It is an interesting field in which to practise, but you cannot deal with High Court cases, or sheriff and jury cases, effectively and efficiently at the sharp end until you have acquired the gravitas, experience, terminology and intellect that are required. That comes only with experience. We need people to enter the profession, be trained, appear in court and work hard, and that will bring us up to speed. At the moment, that is not feeding through.

Stephen Kerr: Thank you for that.

Before I get told to stop—

The Deputy Convener: You are sailing close to that point, Mr Kerr.

Stephen Kerr: Tony Lenehan, you have not commented on this round of questions. I think that the committee would welcome your views.

Tony Lenehan: On what, specifically?

Stephen Kerr: On the whole issue of the cuts and their effect on your profession, and on the legal aid question relating to solicitors, which you have already referred to. The whole system seems to be collapsing in on itself.

Tony Lenehan: It is certainly at its unhappiest point in the past 20-odd years of my working life. Morale is at an all-time low. It looks like more will be asked of people who do my job.

There is a particular skill to being properly trauma informed, given that my role in court is to challenge what someone says. To do so in a trauma-informed way is really hard. The harder that you make the job and the less that you pay people to do it, the more that you will have failings in that job. If you want to achieve the 2025 bill's lofty goals, you need to pay people, even just what you paid us in 2005, to get the right people to do the job that the victims, the witnesses and the judges need them to do.

Stephen Kerr: To say that this is a 20-year morass for your profession is quite a statement.

Tony Lenehan: Yes, I am sure of it.

The Deputy Convener: I am conscious that we are getting quite close to the end of our time, but it is a larger panel, and we are picking up a lot of evidence. With colleagues' permission, I will run this part of the session on a little longer, because I want to bring in two other members.

Amanda Bland (Central Scotland and Lothians West) (Reform): Thank you for describing with clarity and detail a system that is fragmented and complicated, with increasing pressures coming from the volume of serious crime. I am genuinely sorry to hear about the low levels of morale.

You have described the courts system as facing an impending crisis. The SCTS plans to increase High Court capacity, but I seek clarification: is the plan to increase the number of trial courts from 16 to 26 per day, or is that already happening?

Malcolm Graham: No—we plan to increase the number to 22 in January.

Amanda Bland: Okay. Even if that happens, the waiting lists will still be very long.

Thank you for discussing the joining up justice programme, which would shift reform from a series of organisation-led improvements towards system-led improvements. Who would oversee that project, and who would ultimately be responsible when things go wrong?

Malcolm Graham: As you have said, it is a complex system that is under significant pressure. It has suffered from underinvestment over a long time, but I am optimistic that it can be improved.

In response to your question about accountability, everybody is accountable to somebody, but it is not necessarily the case that a single person is in charge. I do not want to go through in detail all the various constitutional accountabilities in the system, because that would take considerable time. In essence, it is down to the people who are leaders in the system to get together and lead the work. The Scottish Government and leaders of the key agencies and organisations are part of that. We have demonstrated that we can do that through summary case management, with some judicial leadership, whereby the police, the Crown, the courts and so on all come together—

The Deputy Convener: I am terribly sorry to interrupt you. I have just been informed that there are some issues with the broadcast—there is no sound. Given the Parliament's obvious emphasis on transparency, and in the interests of the members of the public who are following our proceedings but are not in the room, please allow me to suspend briefly to find out what has happened.

10:43

Meeting suspended.

10:48

On resuming—

The Deputy Convener: We will resume, colleagues. Our colleagues in the official report are now capturing the information that they need to allow us to continue our proceedings, and I will hand back to Ms Bland, who was in the process of pursuing her line of questioning.

Amanda Bland: Do you want me to repeat the question, or can we just continue?

The Deputy Convener: No, I think that we can pick up from where we were.

Malcolm Graham: I think that I had 98 per cent finished answering the question, so I will not burden you with a repetition of my answer, if that is okay.

Amanda Bland: Just to clarify, do you feel that the leaders of each organisation have the capacity, the will and the way to make this happen and to oversee things?

Malcolm Graham: I am not sure that we have the capacity, but I think that we have the responsibility to try to develop it, and to ensure that we are leading. It is not just about what the leaders in the system can do—we need to work hand in glove with the Scottish Government, which is also a key part of Scotland's justice system.

Amanda Bland: My next question is for the whole panel. From what I have heard today, a trauma-informed justice system does not exist; indeed, the system is creating more trauma for victims. Would you like to comment on that?

Malcolm Graham: I will certainly do so—I note that Mr Kerr, too, said that the system is failing victims. I do not agree with that at all; there are some very concerning projections for what might happen, but there have also been some really significant and impactful improvements to trauma-informed approaches and services to victims through the courts and the criminal justice system.

We have already talked about summary case management, and I will not repeat what was said. We now have eight evidence on commission facilities across all six sheriffdoms, and more than 1,000 vulnerable witnesses gave pre-recorded evidence in 2025-26, reducing the need for their attendance at a subsequent trial.

Moreover, the 2026 SCTS customer user survey found that, among victims, witnesses and their supporters, 85 per cent were satisfied overall with the service; 88 per cent were satisfied with the helpfulness of staff; and 92 per cent were satisfied with staff courtesy. The survey also shows that consistency of communication and information remains important, with 79 per cent of victims,

witnesses and supporters saying that the services met their expectations. I could go on, but I think that any contention that we are routinely failing victims across the system is not borne out by the evidence.

Yvette Greener: I would like to come in on that question, too. The domestic abuse statistics that came out yesterday show that 91 per cent of those cases are actually producing prosecutions, so we are not failing victims in that way.

As for taking a trauma-informed approach, there is, of course, always more that we can do—we are not saying that there is no room for improvement. However, I highlight the work of our victim information and advice officers, who support, within certain guidelines, victims or the nearest bereaved next of kin in cases. We are also supporting things such as the bairns' hoose initiative by having officers embedded there.

We are continuing to work on wider trauma-informed practices. Malcolm Graham mentioned the evidence on commission rooms, but we, too, are changing a lot of the space that we use when we talk to victims in our offices. We now have a much better environment for people to come into.

Going back to summary case management, it is surely right that we are trauma informed. After all, we need only look at the number of children who are no longer being required to come and give witness accounts in court, because of summary case management. Indeed, Sheriff Principal Anwar's report very clearly highlighted the number of those who had no longer needed to come and give evidence as a result of that approach. That is being trauma informed.

Body-worn video is another important aspect. If we were able to bring that, and summary case management, into solemn trials, we would actually have evidence much earlier on and would not need to call people to give evidence in cases.

Tony Lenehan: The treatment of vulnerable witnesses and complainers is better at the moment than it has ever been in my 20-odd years as an advocate. Great care is taken, both with the provision of pre-recorded evidence and with their treatment before and in court. They are entitled to have a meeting with the defence counsel and, at that meeting, I will explain what I am going to do, why I am there and so on. The sense that I get is that we have improved year on year on year as far as that is concerned.

Amanda Bland: Good—it is very reassuring to hear that. Thank you.

John Good: The trauma-informed approach is one positive aspect of our job. We probably did not start from a terribly high base, decades ago, but I know from my own experience that the Law

Society offers online training to all solicitors about how to approach the issue, how to deal with it in court and how to question appropriately. The judiciary has been trained, too, with case law given as guidance on how it should be done. If we are looking at what we might call tangible progress, that is one of the aspects of our sphere of influence in the work that we do that has positively, and quite markedly, improved over the past five or six years.

Amanda Bland: I agree that a trauma-informed justice system is absolutely critical; it is just that I felt, from what you previously said, that the system was not allowing that to develop and be effective. That was what my question was about—I was not questioning the trauma-informed approach itself.

John Good: That is not a characterisation that I would recognise from my experience, both in the Law Society and as a day-to-day practitioner.

Amanda Bland: Thank you.

This question is for Malcolm Graham. You talked about the SCTS seeking £62 million for criminal case management reform over five years. If that money materialised, what measurable improvement would it deliver for victims, witnesses and accused people, and by when?

Malcolm Graham: We have not worked through the detail of exactly what the performance outcomes would be, or when. We have made some propositions in the outline business case. We are still working on that and developing it. However, as I mentioned earlier, the intention is to create a platform for starting to provide a more efficient system.

To go back to your earlier question, and to repeat what I said at an earlier point in the conversation, if we introduce the delays that the modelling has projected might happen if we do not intervene, that will, fundamentally, not be a trauma-informed approach. If people are going to wait for three or four years for a case to be resolved, we cannot describe that as a trauma-informed system. The investment in a new approach to designing how we provide our services, using technology and linking that into existing and emerging technology needs of the people around this table and beyond, will give us a whole range of opportunities to become more efficient and effective: sharing data, understanding better what we are doing, communicating more directly with victims and witnesses, and making sure that we make the best use of the limited resource that we have.

The Deputy Convener: I am very conscious of time, and we will return to some of those issues in pre-budget scrutiny. I appreciate my colleague Marie McNair being so patient, so I give the last round of questions to her.

Marie McNair (Clydebank and Milngavie) (SNP): Thank you. You will be glad to know that most of my questions have been covered.

Yvette Greener, can I take you back, to the bairns' hoose? What challenges remain in achieving a national roll-out?

Yvette Greener: Fundamentally, it will come down to funding. We have been provided with some funding by the Scottish Government to support that really fantastic initiative, which is having great outcomes. To extend that further will require additional funding support, fundamentally, if we are to roll it out nationally and continue to embed deputies within it.

Marie McNair: Resources seem to have been covered quite a lot by my colleagues, but I will mop up a wee bit. What areas of the justice system are currently most unresourced?

Malcolm Graham: The way in which, constitutionally, the funding is allocated in the main, leaves it up to SCTS the choice of how it is then apportioned. I do not wish to speak across the whole system on behalf of other organisations but, from a courts perspective, the criminal justice system is under most pressure, and the high court element of that is under the most pressure at the moment, because of all that we have spoken about when it comes to case volumes.

Marie McNair: Just for the record, how confident are you that the current budget will be sufficient to meet the existing demands? What will be the impact if you do not receive further funding?

Malcolm Graham: The impact will be significant when it comes to the services that we can provide, the delays that it will introduce into the system and ultimately, not just the impact—horrific as that is—on individual witnesses, victims and accused people, but the big lead-through into other parts of the system. If people are on remand for longer—the highest proportion of remand cases is in the high court—that has a negative effect on the prison population, which is under extreme pressure, as you are all well aware. Ultimately, my concern is that public trust and confidence in the system will start to be undermined, and we need to make sure that we do everything that we can to avert that.

Marie McNair: Thanks. Does anybody else want to comment on the budget?

Yvette Greener: Fundamentally, we must be recognised as being demand led. We cannot control that. The nature of the offence determines the correct forum for it to go to. Prosecutors decide independently on the most appropriate route for the case.

Being demand led is the most important element of that. However, as I spoke about earlier, there

also needs to be a recognition that our demand starts right from the police, who I am sure will put their case about what they need and how that relates to things such as digital forensics and their capabilities in respect of reporting, which comes through to us when we consider the cases.

We self-impose efficiencies as much as we can—we are consistently driving that, alongside areas of reform to our operating model. However, if we are unable to maintain sufficient funding, we will need to give serious consideration to further delaying things such as Covid deaths investigations, and there will naturally be longer timelines. We may well find that people wait longer for justice because we are not able to provide it as quickly as we should.

Marie McNair: Thank you for that answer.

The Deputy Convener: This has been a rich evidence session. I apologise again for the slight technical error that we had earlier on. We will no doubt return to many of these issues in the course of our deliberations, not least when it comes to pre-budget scrutiny. On behalf of all members of the committee, I thank the witnesses for their attendance and for the time that they have given us. Before we move on to the second panel, I will suspend the meeting for five minutes for a brief comfort break.

11:01

Meeting suspended.

11:07

On resuming—

Courts and Court Users

The Deputy Convener: We return for our second panel of the meeting. I am delighted that we are joined by Debbie Adams, director of development and external affairs at Victim Support Scotland; Anna O'Reilly, assistant director of Children First; and Rhona Willder, deputy chief executive officer of the Scottish Independent Advocacy Alliance. You are all incredibly welcome today, and we are enormously appreciative of your time.

We have several questions, and I will direct the first questions to Ms Adams. You will have followed some of the previous evidence session with witnesses from the courts system. Has the reduction in the backlog for sheriff court solemn cases reached victims' lived experience? Will you tell the committee a bit more about the effectiveness of the victim information and advice service?

Debbie Adams (Victim Support Scotland): Thank you for the invitation to the meeting. I am delighted to give evidence on behalf of the victims, witnesses and families who have spoken to us about their experience. A lot of our evidence today will be taken from that experience, which I hope backs up the more technical and procedural discussion that we heard earlier from the first panel.

Consistency is an issue. Some people will have a fair and adequate experience, while others will find that the system is still not responsive to their needs. Consistent communication is also a key issue; we consistently hear that there is a lack of information and communication, particularly in summary cases. There is an issue with regard to speed, and you heard about the number of cases that go through. Everyone arrives at the same time and waits to see whether their trial will proceed on that day.

The system itself is highly confusing for people. Moreover, when I spoke recently to staff, they told me that their experience was that the victim information and advice available from other services can be inconsistent across all of the court system.

The Deputy Convener: For what it is worth, I agree with you. In a high-profile constituency case that I am dealing with at the moment—and which I obviously will not talk about, for sub judice reasons—the victim information and advice service did not contact the victim to let them know when the individual in question was appearing on an undertaking and did not let them know whether they had been bailed or remanded or what the

outcomes were. Therefore, I appreciate your putting that on record.

I was struck by Tony Lenehan's suggestion in the previous evidence session that the support levels for victims are the best that they have been in 20 years. Was he wrong in that?

Debbie Adams: Support levels for special measures have absolutely increased and improved. If you are eligible for such measures—if you are, say, a child, a vulnerable adult, someone over 65 or someone involved in particular crime cases—what is available to you has improved. Indeed, you can see that from the surveys.

Identifying vulnerability is the key issue. People who are highly traumatised by their experience of the crime that has happened to them are entering a system that, even if it did operate better, is still complicated. You need only listen to the words that people are trying to get their heads around or to people trying to explain the differences—it is complicated even for those who have not gone through such highly traumatic experiences.

Therefore, I would say that special measures have improved, and I am happy to speak to you about other areas that we think could be improved in that respect, but, in general, when it comes to trauma-informed practice for the vast majority of people who do not get such measures, we could see some improvements.

The Deputy Convener: Okay. Just while you have the floor, can you tell us the other areas that you think could be improved?

Debbie Adams: What has been good is the investment that we have had in remote court facilities. We have a trauma-informed environment in two of our premises in Glasgow and Edinburgh, and we are looking to go live with our system in Inverness. The Edinburgh courts have really taken it up, and it has resulted in victims sitting in a much more comfortable environment. For example, we had a couple of teenagers sitting on their phones all day, and ordering an Uber to bring them food. They were able to do that in our environment, and it was much more conducive to their being able to deal with their trauma.

Therefore, we want more use of trauma-informed remote places outwith the court buildings. People have a great fear of bumping into the accused in a case, and having the ability to move to another building is really key. We want that sort of provision to be increased, and we are willing to be partners and to try to find ways of supporting the courts in that endeavour.

The Deputy Convener: That is excellent. Thank you, Ms Adams.

Turning to Ms O'Reilly from Children First, I want to ask about summary case management. We have received evidence from the Scottish Courts and Tribunals Service that 3,000 fewer child witnesses have been cited, which is a 40 per cent drop. Is that right? Are we seeing that borne out in reality, and what further improvements do you think that we need to look at there?

Anna O'Reilly (Children First): I thank the committee for the invitation to give evidence on behalf of Children First, and the children and families whom we support.

With regard to children's journeys through the court system in Scotland, I would say that the majority of child victims and witnesses are still experiencing significant delays. The three to four-year wait that was mentioned earlier impacts on child victims and witnesses, too.

As Debbie Adams has alluded to, special measures are available, and their use is now being consistently rolled out for children and young people. However, often the preferred option is the use of a screen in court. The bairns' hoose model that Scotland has set its sights on and agreed to roll out is the model of the future that we would all aspire to for child victims and witnesses; they would start the child protection and investigation stage in the bairns' hoose and complete the justice process through remote links to court and with pre-recorded evidence being used as standard in a child and family-friendly environment.

That is the vision that we have for Scotland, but it is not the experience for the great majority of child victims and witnesses. We know what we want to achieve, but it looks very different in different places. Children First, along with key partners including VSS, opened the first bairns' hoose in north Strathclyde in 2023.

In the past year, a specialist procurator fiscal depute has joined and now works out of the bairns' hoose. In our experience, that has led to the greatest transformation that we have seen in the many years that we have been advocating for that.

11:15

Having a bairns' hoose recovery and advocacy worker means that we can link with families from the point of interview through the justice process. That worker can help to fill the communication gap that children, young people and families tell us can exist from the point of the police investigation through the court process. They can also work with the procurator fiscal on the dates on which children appear, either to give evidence on commission or remotely in a trial. Early feedback is that that support is both welcome and transformational for child victims and their families.

The Deputy Convener: That is great.

I have a question that is pertinent to articles in *The Scotsman* and *The Herald* today about the use of Taser guns on children in custody. I understand that they were used 43 times and that there were 262 strip searches of children. Given the topicality of the issue, would Children First wish to comment on that? We will want to have conversations with Police Scotland about how children in custody are being treated.

Anna O'Reilly: Our view is that any child under 18 who has cause to interact with the justice system in Scotland, whether as an accused person, a victim or a witness, should have a child-centred, trauma-informed experience.

The Deputy Convener: Ms Willder, we heard a lot earlier about summary case management and the reforms that are apparently making a difference or having an impact. Will you talk a little bit about the impact on advice services and what more you think needs to be done on that side of things?

Rhona Willder (Scottish Independent Advocacy Alliance): Thanks for inviting Scottish Independent Advocacy Alliance to give evidence today. Independent advocacy and advice are different and distinct forms of support. Independent advocacy would never give advice; it exists to ensure that a person's views are heard.

Independent advocacy provision in Scotland is quite complex, and not a lot of independent advocacy support is available through court processes. There should be. The right of access to independent advocacy exists under the Mental Health (Care and Treatment) (Scotland) Act 2003. That is a broad right of access, so independent advocacy should be available in more settings and be less siloed than it is.

We know that, for example, people with learning disabilities are more likely to be victims of crime, so they should, in theory, have access to independent advocacy support as they go through the court process. However, in reality, that is not the case. Largely, that is due to issues with health and social care partnerships, which have a duty to ensure the availability of independent advocacy, and to the narrow interpretation of what that right of access means.

The Deputy Convener: Will you say a bit more about that? Silo working is pertinent to the Parliament's discussions on public sector reform, which I suspect will dominate session 7. You have given the example of disabled people and health and social care partnerships. Are there any other examples that you can share with the committee?

Rhona Willder: One of our members, who works in the state hospital, provides independent

advocacy only there and is commissioned through the health board. People in the state hospital go through the criminal courts fairly regularly. However, the health board does not have the resources to commission our member to provide support to people going through court processes. In the rare times when the board has commissioned their services, we have evidence that the support provided was very helpful for the person.

The support enables people to understand the processes—for example, the independent advocacy can help them to understand what a solicitor's role is. It is also about linking back to the impact that criminal proceedings have had on people's mental health while they are in the state hospital.

Independent advocacy is there to see things from the person's point of view and to explain the whole system to them. That support is really helpful and important when it is made available. It is just not funded in a way that enables independent advocacy to support a person through the whole process.

The Deputy Convener: Thank you. I appreciate your sharing that.

I will bring in Ms McNair.

Marie McNair: I thank the witnesses for their time today. I want to put on record that although the journey through the courts system has improved, so much more needs to be done. The deputy convener mentioned poor communication, which remains an issue. That has come up in my inbox, along with the lack of support for people as they go through the court process.

I want to go back to the bairns' hoose model. What kind of early lessons have emerged from the implementation of the bairns' hoose? Anna O'Reilly, I will come back to you, because you spoke about that a moment ago.

Anna O'Reilly: The lessons that Children First can speak to most are linked to the north Strathclyde bairns' hoose, which was the first to be opened, in 2023. There, we learned that, if you create a family and child-friendly environment and you have good multi-agency working, you can enable children to give a high-quality pre-recorded interview. They meet police and social workers in the house to do that, and that quality interview can then be used as the evidence in chief, so that the child does not need to go to court. Children can come back to the familiar environment of the house to give evidence by commission or remotely to court, if needed. The feedback that we have had from children and families who go through that process is that it is really helpful.

We have really sped forward with regard to the justice journey for children in the bairns' hoose, and the greatest learning from that has come in the past eight to nine months. For the first couple of years of operation, we were working with the bairns' hoose facility for interviews and post-interview support but although the Scottish Courts and Tribunals Service had worked with us to set up the justice suite, we did not get the expected volume of children coming through. There is something about the system—we have heard this morning how complicated it is—that means it can sometimes feel siloed. Even though the Crown Office and the Scottish Courts and Tribunal Service where key partners in our bairns' hoose and we had switched on the technology, we simply were not able to get underneath why children were not coming through the service.

The real game changer has been the appointment of a procurator fiscal depute who is based in the north Strathclyde bairns' hoose and who provides an immediate link as well as a focus on cases involving children and young people across the sheriffdom of North Strathclyde. There is evidence coming through about what works; the small things are always the big things with children. For example, we ensure that, when children are brought to the house, they are not waiting until half past three before they are called, which would mean their having to return six weeks later. When they are called, we need to ensure that the system understands that they are coming in and that their evidence is heard on the day. For children, that means they are not losing endless numbers of school days coming and then waiting nervously to give evidence.

The procurator fiscal depute has been able to speed up the process and ensure continuity of sheriffs for cases. Their specialist knowledge of the complex prosecution process, viewed through a lens of how they can make that function best for children and young people, is really working. We are excited about what that means for other bairns' hooses. Every local authority now has a bairns' hoose partnership, but, as it has been rolled out, the emphasis has not actually been on ensuring an absolute focus on the fact that the bairns' hoose should be about reducing retraumatisation through the justice system. At the moment, in Scotland, the north Strathclyde bairns' hoose is the only one that has that facility. The exciting thing is that that learning could easily be rolled out across Scotland.

Marie McNair: What must happen to roll that out across Scotland, aside from taking the learning from the bairns' hoose that you deal with? Can you tell the committee anything else about that?

Anna O'Reilly: Bairns' hoose provides the model, and the Scottish Government and previous ministers looked at the barnahus model in Europe

and agreed to adopt that here. The implementation in Scotland has been somewhat permissive, and, potentially, a more strategic and slow approach is needed. Some countries have taken a regional approach, starting in one place and systematically working across the country. Such an approach might allow some of the learning to be built on more efficiently and effectively than we have seen.

We are aware that, although the amount of funding has not been confirmed, there has been confirmation that bairns' hoose will remain a focus for the next three years. It would be a wise consideration to ensure that each bairns' hoose that is supported by the Scottish Government has an acute focus on minimising retraumatisation and on getting remote links to courtrooms up and running. Doing so could achieve great things for children and young people.

Bairns' hoose is a complicated model, though. It is equally possible for areas to make a lot of progress in bairns' hoose in the next three years yet do very little to change the process for children and young people. It is about knowing what you need to change and focusing on that, sometimes to the exclusion of other elements.

Marie McNair: What has been the impact on children and young people? What is their feedback on the model?

Anna O'Reilly: Their feedback has been that they have found it supportive. It has made the process less scary. Coming in and giving evidence has been easier. I suppose that there is a contrast between their feedback and the feedback that you often get from children and young people on how hard it is to remember something that happened two to three years ago. The feedback has been overwhelmingly positive, and children and young people have been involved in developing our bairns' hoose environment and shaping it. They think that all children who have gone through such experiences should have access to these spaces.

In fact, in north Strathclyde, there are bairns' hoose change makers, and I am sure that they would be disappointed if I did not invite committee members to have the opportunity to visit them and to look at their building and be shown around it by them if they wanted to.

Marie McNair: I am sure that the committee would take up that offer.

The Deputy Convener: The committee would be very keen to take up that offer. We will follow that up.

Amanda Bland: Sorry, Anna—this is another question for you.

Bairns' hoose sounds like a really positive, interesting model. Can you talk me through the

journey of a child who does not access that system? What does the process look like in comparison?

Anna O'Reilly: Most children in Scotland should now have access to the first part of the journey through a joint interview with police and social work using a new framework called the Scottish child interview model. The model means that the child's evidence is pre-recorded and of a high enough quality to go forward for prosecution. However, there are some areas in which decisions are taken at an early stage that mean that some children—some under-18s—do not have that interview. If they do not have their evidence taken in a pre-recorded way at that point, the Crown will sometimes ask for it later. That can mean that the first point at which pre-recorded evidence is given by a child can be many months after the initial disclosure. That is a discrepancy.

The ambition is to make the SCIM available to all children and young people who are affected by the most serious crimes, but that is not currently the case. For many, and potentially in most areas, the position remains that the police are the lead agency. While the police continue to investigate the case, they stay in touch with the family and tell them what is happening. However, when the case goes forward to the Crown, the gap in communication can start. Typically, it is not unusual for eight to 12 months to pass before a family is contacted by the Crown to let them know the next stage. As they move on through the process and the relevant timeframes, there could be a point at which the victim information and advice service gets in touch with them to speak about special measures.

Often, for children and families, contact from the victim information and advice service asking a young person what special measures they would like can typically come less than a month before the trial date. The actual date has to be a minimum of two weeks away. Children and young people are living for many months with that uncertainty.

11:30

Amanda Bland: Would it be fair to say that, at present, a postcode lottery determines which system a child goes into?

Anna O'Reilly: It would be fair to say that there is only one postcode in which they would have access to the most trauma-informed system in Scotland.

Amanda Bland: Thank you. This morning, we heard a lot about silo working in organisations and that the best practice would be joined-up thinking. Has any work been done on working with multiple agencies to identify children before they get to the bairns' hoose? My thinking is that the bairns'

hoose is for children in cases in which we know that something has happened. Are you aware of family C and the learning review?

Anna O'Reilly: Yes.

Amanda Bland: In that case, the abuse was not identified, yet there were lots of warning signs. I am just wondering whether there has been any modelling or joined-up thinking across the whole system regarding what you have been learning from the bairns' hoose, and how that learning can be taken to the wider child protection arena.

Anna O'Reilly: You are talking about the case in Glasgow, which was about protecting children. There is the opportunity to learn from what Denmark has done when it comes to the possibilities that the bairns' hoose provides for Scotland. Denmark's barnahus is delivered on a regional and local basis, and it is the centre of excellence for all their child protection work. The children and young people who then need to be interviewed because of suspected harm flow through that system. If there had been a fully functional multi-agency model during that particular case in Glasgow, with all the known vulnerability factors, the family should have found itself in a bairns' hoose arena with a different level of scrutiny.

Amanda Bland: Thank you—that is very interesting.

Stephen Kerr: I will focus on a little exchange that I had earlier with the witnesses from the Crown Office and the Scottish Courts and Tribunal Service, in which I suggested that the current system is failing victims. They refuted that suggestion pretty strongly, but I am not sure that they convinced me, so I will ask Debbie Adams a series of questions to highlight the experiences of victims in the justice system. First, do victims ever disengage from the justice process because of proceedings going on and on and there being a constant renewal of their trauma?

Debbie Adams: When I ask our staff about the experiences of victims, I consistently hear that victims frequently say, "I wish I hadn't bothered." The issue is broader than just disengaging with the current trial, because it affects public confidence. It would not be accurate to say that victims' experience of a delay is, in and of itself, the only factor that influences disengagement; there is also, as I said earlier, people's fear of meeting the accused and the question of how things will go when they are actually in the court.

Stephen Kerr: Is that to do with confidence in the system? Do they feel that the system will not work to protect them?

Debbie Adams: It is sometimes about the physical buildings and the fact that—

Stephen Kerr: They might bump into the accused.

Debbie Adams: Yes, they might bump into people. Special measures allow for other arrangements to be made, but if a person does not have special measures, they will enter the building and could be queuing beside the accused and their families.

Stephen Kerr: Beside the alleged perpetrators.

Debbie Adams: Yes. That fear is one of the risks that can cause disengagement. There is also a connection with communication. It is difficult to get information in the time between when a person gives evidence and when they get the letter to come to court, and people do not know how to get in touch. They report to us that they have long waiting times when they phone the court to get information.

I have some sympathy with what the SCTS said earlier about modernisation, because every other service that people engage with has some way to give them information or to allow them to access information, whether that is digitally or through self service. At the moment, it seems that people must phone and they will often wait for a long time. All those conditions lead to a risk of disengagement.

Stephen Kerr: I can relate to that on a personal level. Who is responsible for connecting the dots for victims? My experience is that communicating trial dates and postponements, for example, seems to be up in the air. What is the general experience of victims?

Debbie Adams: When you look at the various bits together, it is really complicated. The issue is how to provide information that people can access themselves. That should be the bigger question. There should be a way of updating people as they go through the process. There seems to be—

Stephen Kerr: Are you suggesting that there should be a notification when something has changed?

Debbie Adams: Yes, to let them know what is happening next. A lot can happen on the day.

We are really pleased with the developments to the justice digital front door. In relation to a victim-centred approach, we have been asking how the different systems notify people about the information that is available to them. When a person enters the police system, the incident is recorded, a crime type is allocated, and they are assigned to that category.

Stephen Kerr: Then there are the fiscals.

Debbie Adams: Yes, then there is the Crown system.

How the information is recorded makes information exchange really difficult. I do not think that people are sitting there thinking that they will keep all the information to themselves. The issue is the way in which information is recorded in different systems.

Stephen Kerr: Do different parts of the system think that they will be the ones that will let the victim know what is going on? Is it very clear who should be doing that?

Debbie Adams: No, I do not think it is.

Stephen Kerr: It is not clear?

Debbie Adams: No. VIA has a role in doing that, but our experience is that the service is very patchy. I hear good things about certain courts and about it being poor in others.

There is an opportunity to think about front-facing roles and having those staff based in the court while proceedings are under way.

Stephen Kerr: Does it depend on the court or the fiscal's office? Is this another example of the postcode lottery that Amanda Bland referred to?

Debbie Adams: Unfortunately, yes.

Now, to be fair to the system, if other people who have a role to play do not turn up, the trial will not go ahead. It would help if people were more proactive in providing information.

Victim Support Scotland has volunteers in every court across Scotland when trials are in session. We could play a greater role, but we sometimes struggle to get information about—

Stephen Kerr: You struggle to get information?

Debbie Adams: Yes, on updates.

The Convener: I will bring in Ms Willder, as she is quite keen to add to this discussion.

Rhona Willder: Just to add to Debbie's points, one of our member organisations provides independent advocacy through the Glasgow youth independent advocacy project. Its role is to work with young people to explain charges and the roles of Police Scotland, COPFS, the courts and solicitors in an accessible way, and to help them to prep questions. Those providing support provide communication support, and can explain someone's communication needs to all the other professionals who will be interacting with them in the system.

The role of those providing support is to sit alongside the young person so they can help the person's views to be heard. However, they do more than that; they also help them to interact with other systems, such as the education and health systems.

Stephen Kerr: They provide broader advocacy.

Rhona Willder: That relationship-based support is key.

Stephen Kerr: If they were not there, I take it that, in relation to the Crown and the courts, the person would be treated like everyone else.

Rhona Willder: Yes. One of the advocacy partners—those are the people who receive independent advocacy—said that they felt the communication from the Crown Office and Procurator Fiscal Service was confusing and overwhelming. That is an example of—

Stephen Kerr: Or underwhelming in some cases.

Rhona Willder: Quite possibly.

The key thing for us, as the national membership organisation, is that that happens only in Glasgow; it does not exist anywhere else.

Stephen Kerr: In a sense, that reinforces Debbie Adams's point that provision is a postcode lottery, rather tragically.

I return to Debbie Adams. Will you describe to us, as evidence, before this committee, what it does to a victim of attempted rape or rape to have to wait 1,000 days before they understand the outcome of the justice process? What does it do to someone to live with an unresolved criminal case of that solemnity and soberness hanging over them?

Debbie Adams: I do not want to understate the depth of trauma and the fact that you have to carry it with you and that there is no resolution until you can get to trial. That process is difficult in and of itself. Those who have to carry that trauma also worry about their ability to keep their evidence in their head and to give their best evidence on the day. That is why special measures are so important—as I have said, progress has been made on them and the requirements in that respect. However, we also have to consider what else might be happening in relation to the crime—for example, whether the accused is on remand or on bail—and the fact that the longer the delay, the greater a person's chance of bumping into the accused in their community.

More broadly, we need to think about the economic impacts on people of court delay and adjournments; in order to turn up, you have to get cover for childcare or take time off work, and then you might have to come back again. Colleagues have also spoken about the educational impact on children, but the stress and trauma of the situation also affects interpersonal relationships.

People have talked about this being a whole-system issue, but we need to bear in mind that it is

actually a whole-society issue, because of its knock-on effects on the other areas that I have mentioned.

Stephen Kerr: The total cost that you have just described, and the fact that this reaches every part of a person's life—all their relationships, their employment and everything—are certainly something to think about.

Debbie Adams: Absolutely.

Stephen Kerr: If I might, deputy convener, I want to ask a final question. What has been the impact or effect of this Parliament's decision to remove section 23D of the Criminal Procedure (Scotland) Act 1995 in relation to bail? What has been the impact of that post the passing of the victims act? What is the name of the act again? Is it the Victims and—

The Deputy Convener: Do you mean the Victims, Witnesses, and Justice Reform (Scotland) Act 2025?

Stephen Kerr: I should just have referred to the 2025 act.

Debbie Adams: I do not have that evidence to hand, but I would be happy to write to you afterwards on it.

Stephen Kerr: Would you do that?

Debbie Adams: We have already given evidence on our views on bail, so I would be happy to provide you with information afterwards.

Stephen Kerr: I think that that would be useful in the context of the evidence that we heard last week, too, which you may be aware of.

Debbie Adams: We will take that away and provide some evidence on it.

Stephen Kerr: I would appreciate that.

The Deputy Convener: Thank you, Mr Kerr. I will now hand over to Mr Macpherson.

Ben Macpherson: You have provided me with a good segue, Mr Kerr—thank you.

I wanted to ask whether the witnesses had any other points that they wished to express to Parliament, through the committee, about the implementation of the 2025 act—which, for full clarity, is the Victims, Witnesses, and Justice Reform (Scotland) Act 2025. What constructive difference has it made thus far? What are your views on the need for implementation, and what is your understanding of the issues and opportunities with regard to the implementation to come?

Debbie Adams: Given the size of the bill, I will just focus on a couple of areas. We were most concerned about the issue of parole, and the consideration of parole in cases where the person

had not disclosed the whereabouts of the victim's remains. We are happy that those provisions have come into force. We were also hugely supportive of the abolition of the not proven verdict, and it will be interesting to see how that flows out through the courts.

There is a lot of legislation in the 2025 act, and we want people to ensure that it is implemented, because the fact is that we learn from its implementation by reviewing it. I am happy to come back to you again on any particular issue in the bill that you would like us to comment on, but quite a lot of it still has to be implemented.

One issue of interest to us is referrals. At the moment, the referral process for victims of crime is an opt-in one, which means that the police cannot automatically refer them for support to organisations like ours. With special measures, there is automatic referral, but everyone else must request it. One of the things in the legislation that passes over into the court system is that any delay in the system getting in touch with someone causes, in turn, a delay in that person being offered support, and it is not clear how anyone other than those who get special measures can ask for support, given that referral is not automatic.

Therefore, we would like to see much more of a link to referrals for support. I know that things have improved, but the system is still very complicated, and if you can have someone beside you who can try to explain things, it makes the process feel less daunting. Victim support services, be they provided by us or other partners, are key to that.

Just to bring it back to the legislation, I would say that we are waiting on that element with regard to the police and want to see how they improve referral for support. That passes over into the court system; as I have said, only those on special measures get automatic referrals, and those referrals have been reducing.

Ben Macpherson: Are the matters that you have just highlighted a priority for implementation?

11:45

Debbie Adams: They are the ones that come to mind, but I am happy to take that away and provide you with some information and our views on that. I had not prepared to answer that question, given that we are looking at court delays.

Ben Macpherson: As you wish. That information might be helpful.

Maggie Chapman: Good morning, and thank you for your contribution so far. I have a range of questions, but will start with questions about independent advocacy.

Rhona Willder, you spoke about some of the issues with identifying vulnerability. Can you say a bit more about what works when assessing vulnerability from a statutory perspective as well as practically, because of the kinds of people who offer that support. What gaps should we be looking to plug, and how can we extend independent advocacy support?

Rhona Willder: There are a number of referral routes. A lot of independent advocacy work is referred through social work or is self-referred in specific settings. To go back to your evidence session last week, often, there is a self-referral process in prisons. Independent advocacy services exist in most of the prisons in Scotland, but there are six prisons that do not have any of those services, due to commissioning processes. In the prison setting, if someone is interacting with NHS services because of a health condition or medication, they are more likely to understand that independent advocacy is available in the setting.

The services are very underfunded and have limited resources. One independent advocacy organisation has a budget of £15,000 to work in a prison for the entire year, which does not cover anything more than one day a week. That will not be consistent across the prisons that have independent advocacy provision; it is incredibly variable. The resources dictate who can use the service. There are not the resources to actively promote independent advocacy, explain to people what it is and why they might need it. It is much more of a case that, if someone is at crisis point and needs a different type of support, they may be referred to a service or they might self-refer.

As the membership organisation, we do not provide independent advocacy, but we get repeated phone calls from prisoners asking for that support. It is a time-consuming process, because we have to write letters to them and signpost them to the relevant organisation in their area. In all the criminal justice processes, prisons are the places where our members have the most experience of providing independent advocacy. It is complicated, but it is very much dictated by how much resource each organisation has for the specific area where they are working.

Maggie Chapman: It is helpful to hear your description of what happens in prisons, which connects to some of the broader issues that I know that the committee will spend more time on. If we think more broadly than the prison sector, how is independent advocacy viewed in the pecking order of what should and should not happen? Where do you see a need for legislative change, or do we have the legislative platform that we need? Are there things that we should be looking to do differently with what we already have?

Rhona Willder: We do not have the legislative platform that we need for independent advocacy. It is mentioned in different ways across 10 different laws in Scotland. Some describe it as a right of access and some suggest that you should be provided with independent advocacy if you ask for it, which puts the onus on the person to know that that is what they want. The definition of “independent advocacy” is different across the different laws and is usually set out in secondary legislation. That has a big influence on how services are commissioned. Some duties to provide independent advocacy are set at the national level and some are set at the level of local health and social care partnerships, and there are then further silos in the different policy areas that the different laws cover.

As a national organisation, we would like to see the implementation of the Scottish mental health law review’s recommendation on carrying out an analysis of where independent advocacy sits across all the laws that mention it. We have sent a briefing paper to a different parliamentary committee and asked whether it would take forward such an inquiry.

It is key that we change how independent advocacy is commissioned, and the complexity of how it is described in law has a big impact on that. That affects advocacy partners, and it means that people have to fit themselves into boxes in order to receive independent advocacy and have their views heard.

Maggie Chapman: That is really helpful. I hope that we can keep tabs on how that committee deals with the issue.

I want to talk a bit about Children First’s work. I thank Anna O’Reilly for sharing Evangeline’s story with us. The evidence that has already been given, including the evidence in that story, is really powerful on the impact of good support and on the problems when support is absent.

We have talked a bit about implementing the things that we should be doing. Have you been involved early enough in the process of designing how that implementation will work? Have experienced voices been involved in that process? Can we do better as we implement the outstanding provisions in the 2025 act and other measures that are still to come?

Anna O’Reilly: There has been the participation of children and young people in all the bairns’ hoose development processes. The bairns’ hoose model involves complex multi-agency collaboration in its delivery and, therefore, in its design. The participation of children and young people and their feedback on how Scotland is delivering that model are often not sought early enough; at times, it can feel like a bit of an

afterthought. That is not the desire, but it is sometimes the result.

In relation to Evangeline’s story, I would argue that we are awash with feedback from child victims and witnesses. Through feedback on the bairns’ hoose model and other processes, they continue to tell us what needs to change, and we need to continue to involve them. We are where we are not because children and young people have not told us what is needed but because the issue is incredibly complex.

Maggie Chapman: We need to ensure that what children and young people tell us influences change. Is their ability to influence decisions on implementation, instead of just banging their heads against the proverbial brick wall, what is missing?

Anna O’Reilly: The participation of children and young people has influenced what we have. The tricky position that we are in relates to the interplay between the national vision and the centralised function of it. Back in 2016, the then Cabinet Secretary for Justice, Michael Matheson, set out a vision for eliminating the need for children to attend court at all during trials, so that Scottish Government ambition is not new.

However, the implementation across Scotland of the bairns’ hoose model—the solution by which all child victims can be kept out of the court process—has not been underpinned by the strong message that the purpose relates to justice. Of all the spaces that are being developed and have been funded, only one has an active link to court and justice: the Children First north Strathclyde bairns’ hoose. Long before we opened its doors, we knew that that was what we were setting out to achieve. We are happy to provide more information on our thoughts about that in the form of advice and guidance. Children First is at the table. We are not a lead partner, but we are always willing to share the latest information from children and young people and our thoughts on how Scotland can get this right. That is the only example of such a model that exists in Scotland, and it has been well evidenced elsewhere. If we can implement it properly, we can use that to transform things for all victims under 18.

Maggie Chapman: I want to come to Debbie Adams on that final point, about transforming things for all victims under 18. There is something of value in the bairns’ hoose model that should be available to all survivors of traumatic crime. Debbie, given the success of the bairns’ hoose model and thinking of all your work in VSS and more generally in the victim support sector, do you see that affecting how victims and survivors who are over 18 are treated, or is that not really happening yet?

Debbie Adams: I am all for learning lessons, but adults are different from children. People sometimes want speedy justice and do not actually want multi-agency involvement because they want the process that they are engaging with to proceed as quickly and effectively as it can, in a trauma-informed way.

There are some assumptions that are made. People have been talking about summary case management being trauma informed and it absolutely is. We support the efforts that are being made to reduce court delays. Interestingly, there is no information for victims and witnesses about what that will mean for them, and the process has not necessarily been designed with that in mind. It is reasonable to assume that it is a good outcome if someone does not have to go to court, but some people want to have their day in court and to have their voice heard. We will speak to partners about the lessons that can be learned as the process is evaluated and about how information is shared with victims to explain why we are taking one particular course of action instead of another.

You are right to say that there are lessons to learn from the experience of children and families, but I do not think that those are exactly translatable, as some people just want the thing that has happened to them to be dealt with.

Maggie Chapman: That is helpful.

You implied that the system, rightly or wrongly, makes assumptions about what victims and survivors want and need. You said something about sharing information about why a certain route was taken. In your view, at what point should victims and survivors, in conjunction with the different agencies involved, actually influence the route or pathway that is selected—not take charge of the route, but influence it—so that they are not just receiving information about what is being done to them?

Debbie Adams: Victims tell us that they want agency and want to be engaged. There are parameters and certain crimes attract certain disposals, so explaining that is important for public confidence. Our central goal is to have fewer victims, so if the evidence shows that using alternatives to prison, such as the alternative community payback orders that are in the penal reform proposals, would reduce the number of victims, we are all for that. We want to ensure that that evidence is shared with victims and with the public, so that people understand that those are not necessarily soft options.

In a previous job, I worked in Polmont young offenders institution. For some young people, although not everyone, the thought of a community payback order would feel far more like a punishment than being sent there. There are

alternative punishments, but victims and people who are affected by crime need to be brought along with us in that regard. You have described what might happen and why we might go down a particular route, but you must make an effort and take people with you. We might assume that something is a good thing but, if people do not feel that way, that would not be a trauma-informed approach.

Maggie Chapman: May I ask a final question?

The Deputy Convener: In the interests of time, I will bring in Ms McNeill and I will bring you in again towards the end, Ms Chapman.

Pauline McNeill: I have two questions. Yesterday, a paper was sent to us by the Children and Young People's Centre for Justice. It is all about the gaps in the law and the position of the United Nations Convention on the Rights of the Child—you might be familiar with it. The paper says that article 12 does not cover the child's right to communicate during their case hearing, but includes their collective ability to communicate. It also says that there is currently no provision in place for independent advocacy for a child accused in the court system, despite a similar provision existing for a child appearing before a children's hearing panel. Rhona Willder, can you explain why we arrived at that point?

Rhona Willder: It is down to independent advocacy not being part of the law, because the precedent around independent advocacy commissioning and provision in Scotland has developed through its appearance in different laws.

12:00

Pauline McNeill: So, we have legislated for that in relation to children's panels, but not for the court system.

Rhona Willder: Exactly. It could be that, through the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, independent advocacy provision is being considered—I think that the Scottish Government is currently mapping independent advocacy provision in relation to UNCRC and article 12, which relates to the views of the child. In terms of what provision currently exists, it is not something that happens regularly. The service that I mentioned earlier is one of the only examples of that in Scotland.

Pauline McNeill: But a lawyer would be involved in the process?

Rhona Willder: Yes. An independent advocacy service might help the young person to find a lawyer, and would often help them to understand

what a solicitor is saying to them. One of our member organisations described being in the criminal justice system as like using a map where there are no place names and you do not know where you are. Independent advocacy's role is to put the place names on that map.

Pauline McNeill: Are there not lawyers that specialise in dealing with children? I do not know; I am just wondering.

Rhona Willder: Independent advocacy will often help to refer someone to a solicitor. However, solicitors are not always available to meet their needs. There are organisations that will do it, but the provision is not what it should be.

Pauline McNeill: Thank you, that is very helpful.

My other question is slightly different. The paper talks about the need to ensure that a child is not compelled to give testimony, to confess or to acknowledge guilt, and stresses that the term "compelled" should be interpreted broadly. The Parliament legislated to define a child as someone aged 18 or under. What are your views are in relation to those general provisions?

I represent the Glasgow region, and there is a concern in a lot of Glasgow communities about the fact that perpetrators who are defined as a child under the law—for instance, because they are 17—are committing pretty serious crimes but are not coming anywhere near court. I have a serious concern about applying that approach to someone who is accused of using a weapon or of another serious crime.

I know that children's units deal with some of those cases, and that it is not a matter for you in particular. You might want to try to convince me that I am wrong to be concerned about that, but we are hearing concerns from communities across Scotland about how we have defined a child in relation to some of those offences. What is your view on that issue?

Rhona Willder: We do not have a lot of experience in that area, but I can give one example of a circumstance that could happen. One of our members supported a care-experienced young person with additional support needs who brought a knife to school after serious bullying. Campus police had told him that he was charged with a crime and later told him that he needed to give evidence against the peer he still attended school with. Independent advocacy involvement helped to establish that he had not been formally charged and supported him to have his original statement retracted, so that he did not have to testify. Our member worked with campus police so that they had a better understanding of what his communication needs were.

Obviously, it is a very serious thing to bring a knife to school, and it could have resulted in a very serious situation, but having early involvement and intervention, as well as ensuring that someone is there alongside the person, can help de-escalate such situations.

Pauline McNeill: You have made a really important point. There were lots of good schemes that young people could have been referred to, but I am afraid to say that cuts to services have meant that that is not happening.

Anna, would you like to contribute anything on that point?

Anna O'Reilly: One of the challenges for all of us when it comes to looking at this is that we do not have consistent national data. This is not our area of expertise, but I know through my involvement with the bairns' hoose about the situation that you have described and the fact that there is clearly a postcode lottery nationally.

I know of children under the age of 16 whose cases have been progressed through the courts system, not the children's hearings system. You might be supporting the child's victim or a witness, but because the person named in the offence is under 18 and because of the nature and seriousness of the crime, there will be a dual referral to the children's reporter and the Crown. For victims and witnesses, that can often lead to a very long wait before the decision on which arena the case will be heard in is made.

However, none of us can analyse that without clear data on how many cases involving those under 18 accused of crimes do not progress and, if they do progress, where they go. The same goes for victims and witnesses.

Pauline McNeill: Thank you. Debbie, you might have a slightly different view on this.

Debbie Adams: I go back to my earlier point about there being different systems. The law has changed the way in which we deal with under-18s, and there is lots of evidence on why that is the case. The issue is how we communicate that, and how we ensure that people really understand why certain cases have been treated in a particular way. That is a challenge for victims—and in those cases where young people are victims as well as perpetrators—as well as for communities, and we need to think upstream on this.

I know that you asked a particular question about where this sort of thing is dealt with, but the lack of investment in young people's services locally means that we are not giving young people the chance to thrive or deal with these issues at what is an important time in their lives. We have some responsibility to take an upstream view, instead of just looking at young people when they

are at risk of offending, and to create environments where they can thrive and make a contribution to our communities. Many of the young people with whom we have all worked would have had the capacity to do that, had an intervention happened much earlier.

Pauline McNeill: I cannot really disagree with you. I have spoken to many young people who have been victims of youth crime themselves, and they want some accountability for that, too. Thank you very much.

Amanda Bland: I have a question of clarification for Debbie Adams. Once a victim has made initial contact with the police, how does that victim become aware that they need to opt in for support services? Surely, trauma-informed practice would dictate that they needed to opt out.

Debbie Adams: It is mostly to do with information laws and the general data protection regulation, and what you are allowed to do by way of consent around information. The police hand out a victim care card, but we think that the expectation in the system must be that people are not always ready to take that information on board when a crime has happened. We work closely with the police on training, and we carry out training at the probationer police college to ensure that everyone is aware of this, but there is an issue with how it is then taken up and seen as a priority. Therefore, we need to think about how that sort of thing gets operationalised. If all that we are doing is handing the care card over, and it is then up to the victim to seek that referral for themselves, I suggest that we should find some way of making that offer again when another agency comes into contact with them.

Amanda Bland: What does the victim care card say?

Debbie Adams: That is a good question. Basically, the card refers you to victim support services and says that we will get in touch with you, if you want us to, and discuss whether you are looking for the sort of support that we can provide, such as emotional support, safety planning or financial assistance, should you have been impacted in that way by the crime. We get in touch, and the support that is offered to you will depend on your needs.

Amanda Bland: Thank you.

Maggie Chapman: On a slightly different topic, we have spoken a lot this morning about resourcing and investment in courts. How concerned are you about the sustainability of your resources and the funding to do the vital jobs that you do?

Debbie Adams: The Government has committed to fair funding for the voluntary sector,

which I know the Scottish Council for Voluntary Organisations has been pushing for over a long while. It is great to see that the Government is taking that seriously and is thinking about multiyear funding for the voluntary sector, so that we can plan.

The court delays that we have talked about mean that the very nature of annualised funding makes no sense in relation to the support that is provided for people. We are grateful that that funding is there but we have had a flat-cash settlement for five years; just think about what the rate of inflation has been in that time. I could give you the maths on the real-terms cut that that settlement represents, but that is the reality, and I am sure that other colleagues will be in similar situations.

The voluntary sector and support for victims cannot be seen as an afterthought in the reform; it must be seen as an integral part of it. We cannot only look at the big numbers. Services such as the victim-centred approach funds, for example, and other resources need to be integral to our thinking on how we resource that end of the system properly. It feels to victims that a lot of the attention is on the accused, the perpetrators or the people who are in prison. We have to show by way of funding multi-agency work and proper uplifts that we can continue to provide the services that are so desperately needed.

Maggie Chapman: Would you like to add anything, Anna?

Anna O'Reilly: In relation to child victims and witnesses and, in particular, on rolling out the bairns' hoose model, evidence has emerged over the past three years that having routine access to support, advocacy and recovery for children helps buffer the system and reduce the retraumatisation—although we cannot take that away altogether in relation to the justice system. Having that routine access also provides them with ease of access to recovery for whatever harm they have experienced.

In relation to the overall funding pressures and the complexity of bairns' hoose, our concern is that that routine offer of support, which is an absolutely core part of bairns' hoose, would not be consistent across the bairns' hoose. Our concern is that that element of the bairns' hoose would not progress if there was a lack of funding or a reduction.

We only need to look to the countries that told us what the bairns' hoose model could offer. Sweden has had a national barnahus network for more than 20 years. This year, the Swedish Government has put significant investment into scoping the barnahus, mapping the network and understanding what each barnahus has offer, because it realises that it has a national network of

places that call themselves “barnahus” but offer something completely different. Similarly to Norway, the room that is always missing, if there is any, is the one for support.

In Scotland, children have an enshrined right to recovery from harm. That has been one of the least developed areas over the past three years, so our concern is that, if funding was reduced and services were looking at what they could not do, it might be that provision. Of all the things that children and families tell us, it is not that they do not need support to recover.

Maggie Chapman: That is really helpful, Anna. Thank you.

Rhona Willder: For independent advocacy, SIAA, the membership organisation, is in a similar position to most of our members, whose core contracts often have not had an uplift in more than a decade. That is a tough position for our member organisations to be in.

Given that the main funding that is provided to independent advocacy is under the Mental Health (Care and Treatment) (Scotland) Act 2003, and we know from the Scottish mental health law review that 95 per cent of people with the right of access cannot access independent advocacy, it is very underfunded.

There is also a prevention angle here. At least in the health and social care part of independent advocacy provision, for every pound spent on it, there is a £12 saving, of which £7 can be attributed to local authorities and £5 to the NHS. That analysis has not been done in the criminal justice setting, but if it were to be, we imagine that similar savings would be identified.

There is also the issue of fair funding, which Debbie Adams mentioned, and which SCVO champions, and preventative budgeting and tagging of what work is going on out there that can help to save public resources.

The Deputy Convener: This has been a very helpful evidence session. It has also been a long session, so I appreciate your patience, particularly earlier when we had the broadcasting issues that had a knock-on effect on timings. I thank you on behalf of the committee members and the rest of the team here at the Criminal Justice Committee for your time and your evidence this morning.

As was the case in the first evidence session, there were issues that delved into budgets. When we move into private session, we will look at pre-budget scrutiny, which I am sure will enlarge our minds.

12:15

Meeting continued in private until 13:03.

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