



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### JUSTICE COMMITTEE

Tuesday 7 October 2014



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**JUSTICE COMMITTEE**  
**25<sup>th</sup> Meeting 2014, Session 4**

**CONVENER**

\*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

**DEPUTY CONVENER**

\*Elaine Murray (Dumfriesshire) (Lab)

**COMMITTEE MEMBERS**

\*Christian Allard (North East Scotland) (SNP)

\*Roderick Campbell (North East Fife) (SNP)

\*John Finnie (Highlands and Islands) (Ind)

\*Alison McInnes (North East Scotland) (LD)

\*Margaret Mitchell (Central Scotland) (Con)

John Pentland (Motherwell and Wishaw) (Lab)

\*Sandra White (Glasgow Kelvin) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Catriona Dalrymple (Crown Office and Procurator Fiscal Service)

Assistant Chief Constable Malcolm Graham (Police Scotland)

Stephen McGowan (Crown Office and Procurator Fiscal Service)

Graeme Pearson (South Scotland) (Lab) (Committee Substitute)

**LOCATION**

The David Livingstone Room (CR6)



## Scottish Parliament

### Justice Committee

*Tuesday 7 October 2014*

*[The Convener opened the meeting at 10:30]*

### Decision on Taking Business in Private

**The Convener (Christine Grahame):** I welcome everyone to the Justice Committee's 25th meeting in 2014. I ask everyone to switch off mobile phones and other electronic devices, as they interfere with the broadcasting equipment even when they are switched to silent.

I have received apologies from John Pentland, and Graeme Pearson is here as the substitute.

Under item 1, the committee is invited to agree to consider items 3, 4 and 5 in private. Item 3 is our approach to budget scrutiny, item 4 is our work programme and item 5 is consideration of a draft report on the legislative consent memorandum on the Criminal Justice and Courts Bill. Do we agree to take those items in private?

**Members** *indicated agreement.*

## Child Sexual Exploitation

10:31

**The Convener:** We have set aside at least an hour for item 2, so we can have longer than that if necessary.

We agreed to hold an evidence session on child sexual exploitation following the Public Petitions Committee's recommendation in its "Report on tackling child sexual exploitation in Scotland" that we undertake post-legislative scrutiny of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005. The Public Petitions Committee's concerns relate to the apparent lack of prosecutions under the 2005 act.

I welcome to the meeting Catriona Dalrymple, head of policy at the Crown Office and Procurator Fiscal Service; Stephen McGowan, procurator fiscal for major crime and fatalities investigation at the Crown Office and Procurator Fiscal Service; and Assistant Chief Constable Malcolm Graham, from Police Scotland.

Thank you for your written submissions. Members also have a written submission from Barnardo's Scotland in their papers. The submissions have been very useful. We move straight to questions from members.

**Christian Allard (North East Scotland) (SNP):** Good morning. The evidence that we have received from Barnardo's mentions the challenges of the need for corroboration in proving sexual offences. That written evidence is corroborated by the Crown Office and Procurator Fiscal Service, which states:

"grooming behaviour may be difficult to prove by corroborated evidence given that it will have occurred in private."

Is the requirement for corroboration the main barrier to prosecution in child sexual exploitation cases?

**Catriona Dalrymple (Crown Office and Procurator Fiscal Service):** There are many barriers, but I recognise that the requirement for corroboration is one of them. The committee has heard an enormous amount of evidence on corroboration and I do not think that this is the time or the place to open up that debate again.

**The Convener:** Thank you for that.

**Catriona Dalrymple:** However, I think that we have made it clear in our written evidence that the requirement for two sources of evidence is sometimes difficult to meet in relation to these offences because, as we all know, they are committed by clever individuals who will evade

detection and they are often committed in private. That is where the difficulty arises.

**The Convener:** Assistant Chief Constable Graham, do you want to say something from the police's point of view? You do not have to.

**Assistant Chief Constable Malcolm Graham (Police Scotland):** I echo what has been said about the requirement for corroboration. We know the challenges and, indeed, the strengths that that requirement brings to the justice system. In sexual offending, particularly when the perpetrator has explicitly set out to target a vulnerability, they will design into the nature of the offending a minimal chance of the victim being able to provide an account in a way that is likely to be heard. That poses multiple challenges for all the services that would seek to address that offending. Corroborating that account to get the case into the justice system is just one of the many barriers—I am sure that we will speak about others in more detail.

**Christian Allard:** Another barrier might be a barrier to prosecution for grooming. There is some evidence that only other offences are prosecuted and that grooming becomes only a narrative in the evidence to support the prosecution. Is that why there have not been as many prosecutions for grooming as we might have expected?

**Catriona Dalrymple:** You are probably referring to section 1 of the 2005 act, which is what gives rise to some of the concerns. As the Cabinet Secretary for Justice's letter to the committee points out, the policy behind the section was made clear in the policy memorandum. Section 1 was introduced with the particular aim of ensuring that making online contact and arranging to meet is in itself criminal. Many other criminal offences in Scottish criminal law can capture a lot of behaviours that could still be described as grooming. Section 1 was designed to capture a particular type of behaviour and to ensure that it was made criminal. We regularly prosecute and gain convictions for many other offences that capture a lot of that type of behaviour.

**The Convener:** We are aware of that from your written submission. Should there not be some consolidating legislation? We have wee bits and pieces all over the place. That might be a matter for ministers, but it seems to me that, when we have a couple of acts as well as the common law, that makes things complex.

**Catriona Dalrymple:** There are bits of law all over the place, and we also have the common law. The Crown Office is aware of what the law is and how we apply it in relation to criminal offences. We regularly prosecute a lot of sexual offences under the Sexual Offences (Scotland) Act 2009. If required, I can give you details of the ages of the

victims in those prosecutions and the high level of cases that we can take up.

**The Convener:** As my colleague said, if we had consolidating legislation would it not be easier for people—not necessarily for informed people such as you and the police but for other parties—to understand where to look in legislation when crimes have been committed? The grooming offence should perhaps have been absorbed into other legislation.

**Catriona Dalrymple:** I would not disagree with that. Obviously, that is a matter for ministers—

**The Convener:** Of course it is. Are you saying that consolidated legislation would be helpful?

**Catriona Dalrymple:** Yes.

**Christian Allard:** I would like to have the view of the police on the matter.

**Assistant Chief Constable Graham:** We have provided information on the use of section 1 that shows that we are using it more than we did when the legislation was introduced in 2005-06. One reason for our underuse initially was that it was a discrete piece of legislation and not part of a wider act. I acknowledge that we, as a service—this is going back eight or so years—did not communicate the change to our front-line officers as well as we could have done to ensure that the section was used in every circumstance in which it could be used. However, we have undertaken that work at some pace over the past year with the result that the section has now been used 162 times, as our written submission states.

The breakdown of the figure is important, as the analysis of the offences gives us an indication that, in a substantial proportion of cases, the legislation had the intended effect, as the offences were not subsumed by a contact offence. I will try to make sense of the way that it is written in our submission and will add a bit of detail.

Of the crimes that we looked at, 58 per cent were non-contact grooming offences—that is, where somebody had contacted an individual with the intention of meeting them or had arranged to meet them but had not yet met the individual, who was the victim. The remaining 42 per cent of the crimes were contact offences. However, in two thirds of those crimes—which I think is 28 per cent of the total number of crimes—the accused was also charged with another sexual offence. In other words, sexual contact had already been made and I assume—reasonably, I think—that we had identified the grooming as a result of having identified the sexual offending. That was not the gap that the legislation was intended to fill, but it is appropriate that we used it in those cases to acknowledge that grooming had occurred that led to the sexual crime. The final 14 per cent of those

cases are particularly important, as they are where there had been some contact with an individual but it was not sexual contact and we were able to evidence grooming. That is what the legislation was intended to address. We are not seeing one particular dynamic here; we are seeing a mixture of circumstances.

Those figures provide a good level of confidence that the gap that the legislation was intended to fill is being filled. From my knowledge of the discussion at the time, I do not think that it was anticipated that a hugely significant number of those crimes would be identified. It is difficult to say what that number should be, but it is of a lower magnitude than the number of charges that were submitted to the procurator fiscal in reports under the 2009 act, for instance.

**The Convener:** The committee papers clarify that we are looking not just at one piece of legislation that introduces the offence of grooming but at other parts of the common law.

**Margaret Mitchell (Central Scotland) (Con):** According to the written submissions, part of the problem is that, if there is evidence of a more substantial crime such as intercourse with an older child, only that charge is pursued and when that charge falls there is nothing much to fall back on.

I am encouraged by the fact that the 2005 act is being used more and that we are raising awareness. I was on the committee when the bill was passed. In fact, I was intent on introducing a member's bill on grooming but instead the provisions in section 1 were added to the bill to cover things that are happening under the radar in the family home or with a child who is on the computer or texting on their mobile phone. The offence of intending to travel to meet the child plus that contact would, I hope, be a preventative measure that would stop something worse from happening.

On the issue of awareness raising, is it time to adapt and change the definition of CSE?

**Assistant Chief Constable Graham:** Our definition of CSE is pretty clear. Child abuse is a complex area and there is a huge and, sadly, growing number of ways in which children are abused, particularly sexually, throughout the world. As I highlight in our submission, there are a growing number of ways in which technology is used. The global reach of that continues to extend and perpetrators are actively seeking new ways to avoid being detected.

I do not think that a change in the definition would necessarily help to protect children and young people from that harm. Although it is always useful to have a discussion about the pros and cons, we should focus on ensuring that people are aware of what Margaret Mitchell rightly says is

potentially going on out there in homes and streets. We should be raising public awareness to ensure that people are more attuned to the risks that children and young people face today. We must ensure that all the agencies are working together and sharing information and that, where we identify a concern, it is directed to the right place and acted upon. That is what we have been doing since Police Scotland was created.

**Margaret Mitchell:** I will read out the definition because I think that it speaks volumes. It says:

"Any involvement of a child or young person below 18 in sexual activity for which remuneration of cash or in kind is given to the young person or a third person or persons. The perpetrator will have power over the child by virtue of one or more of the following—age, emotional maturity, gender, physical strength, intellect and economic and other resources e.g. access to drugs."

That is hardly user friendly or something that the public could relate to and think, "I've just witnessed sexual grooming," or, "I'm aware of sexual grooming."

10:45

**Assistant Chief Constable Graham:** The definition is intended for the training and awareness of professionals; it is not intended as a public statement or as an easy strapline for a public information campaign. I would very much welcome a campaign on these issues and I would not advise having the definition at the core of that campaign.

I started by saying that child abuse takes many different forms, and child sexual exploitation is only one of those forms. We need to be alive to all of them in the different settings in which they happen. The legislation that we are speaking about does not cover just child sexual exploitation; some of it covers other forms of child abuse as well. For example, the 2009 act is extensive and is the recently consolidated legislation, as members will be aware.

**Catriona Dalrymple:** We have identified that one of the barriers to bringing about prosecutions is the fact that the child often does not realise that what is happening to them is wrong. I agree with ACC Graham that the definition is not going to change that. It is much more about education and public awareness in schools from a very early stage so that children know that such behaviour is wrong. We know the type of children who are targeted—those who are vulnerable. We must ensure that children are aware that the behaviour is wrong, so that we can help them to speak out.

**Margaret Mitchell:** There is a bit in the CSE definition about

"remuneration of cash or in kind ... given to the young person".

As you say, the young person often thinks that they are in a genuine relationship but it is actually grooming, so we come full circle. Should that not be reflected in the definition or be referred to in some way?

**Catriona Dalrymple:** I have no difficulty with the definition and what it reflects. All the professionals know what we are dealing with when it comes to child sexual exploitation. It is more important that we educate the children themselves to ensure that they are aware of what is happening to them and that they are being exploited.

**The Convener:** Ms Dalrymple used the word “vulnerable” in relation to particular categories of children. What is being done in relation to the education of children in care homes and so on? The example in England was a dreadful one. What has happened on the ground in Scotland?

**Assistant Chief Constable Graham:** I am happy to answer that. There has been a growing recognition of the different dynamics of child sexual exploitation over many years. For example, when the 2005 act was passed, the level of understanding about where digital technology would go was very different. I think that it is safe to say that the way in which digital technology would enable people to be contactable, to share digital imagery and to be groomed could not have been conceived of at that time. However, in a very short space of time in Scotland, we have recognised that we need to go out proactively and look for that type of offending.

I spoke about the figures in relation to section 1 of the 2005 act. I emphasise that section 1 is a small portion of what we use to tackle child sexual exploitation. There is not a direct parallel between section 1 offences and what we have done to tackle child sexual exploitation. However, in regard to that very important 14 per cent of cases in which there had been non-sexual contact but the grooming offence was complete, we believe that finding those cases is a result of our proactivity in seeking out such cases and in recognising that we need to go looking where we think we might find such cases.

One way that we can find such cases is by working more closely with a wide range of agencies that are in daily direct contact with children and young people, so we now have far closer working relationships with third sector organisations. Barnardo's is one of the key organisations. As we know, it has submitted information today and it has lobbied hard to improve the responses to CSE. A petition from Barnardo's to the Public Petitions Committee has resulted in our sitting here today. As a result of that work we are, with a range of other agencies, not just educating our police officers and staff, but directing them to other agencies and geographic

areas. We know that there are potential hot spots where young people gather and we need to be alive to that—

**The Convener:** Can you develop your points about agencies and hot spots, please?

**Assistant Chief Constable Graham:** Agencies would work across the statutory sector. Local authorities clearly have a key role because they are, in the main, responsible for children who are looked after and in care. On health services, we know that by improving our approach to identifying health issues at an early stage we might find issues that could be related to sexual abuse and which could lead to investigations on child sexual exploitation.

On the third sector, the convener highlighted the publicity following the most recent inquiry and significant case review in Rotherham, which came on the back of a long line of similar cases in large towns and cities in England and Wales. The issue was first identified by quite a small charitable organisation whose people needed to be listened to because they worked very closely with young people. As a service and collectively, we need to continue strengthening our community links with all such bodies.

That can be led by an organisation such as Police Scotland; we have the ability to stand up and demonstrate national leadership now that we are a national service, which is one of the strengths of the service in terms of co-ordinating that activity across our 14 local police divisions. However, responsibility for that rests primarily with the devolved system that we have in Scotland, which has many strengths through the child protection committees and the chief officer groups at local level.

**Sandra White (Glasgow Kelvin) (SNP):** Chair—

**The Convener:** Margaret?

**Margaret Mitchell:** I am okay with that.

**The Convener:** Sandra, do you want to come in on that?

**Sandra White:** I want to pick up on that point. I had the experience of going out with the police to a hot spot in Glasgow where there were young girls who had been drinking and were very vulnerable. The police officers and ourselves took them home. When police officers take such young girls home, does that automatically trigger the involvement of social services and is that what you mean by local agencies being involved?

**Assistant Chief Constable Graham:** It might trigger social services' involvement, depending on the assessment. I cannot comment on the specific set of circumstances that you described. However,



we developed a national model of recording concerns during the lead-up to the Children and Young People (Scotland) Act 2014, which will be brought into force in 2016. As members will be aware, it will place a duty on the chief constable to collect and share information where there are concerns about young people's wellbeing.

In the kind of circumstances that Sandra White described, the police might have a child protection concern about somebody. For instance, if there was information on an area of concern, and we were finding young people who had been drinking outside and we thought that they had been at risk of being sexually abused or assaulted, that would immediately be dealt with as a child protection concern. Interagency procedures for that would be invoked and an investigation would be commenced. If that type of information was not present but we were perhaps concerned just because the young people were out late in an area where we felt they could be vulnerable to exploitation, that concern would be recorded and shared and assessed on an interagency basis but in a slightly slower fashion than if there was a child protection concern. We have a system for doing that across the whole country with all the statutory partners that have a role.

**Sandra White:** Thank you.

**The Convener:** Do you link in with the children's hearings system as well?

**Assistant Chief Constable Graham:** Yes, we do.

**The Convener:** Is that when there may be issues of child welfare?

**Assistant Chief Constable Graham:** Absolutely. There are statutory grounds for referral. The police are required to refer if we think that the grounds are met. That system is being slightly redesigned to take account of the 2014 act, so it will deal with a lower level of concerns and intervene at an earlier stage in young people's lives when we think that support and assistance would be helpful. The intention will be to prevent them from coming to the type of harm that we have been speaking about in relation to the legislation, which is quite clearly at the higher end and which we would wish to prevent.

**The Convener:** I will take John Finnie, then Roderick Campbell, then Elaine Murray.

**John Finnie (Highlands and Islands) (Ind):** I have a few questions. First, Mr Graham, I thank you for the very detailed response that you just gave. It was reassuring to hear you say that there is a continuous learning and development process. I want to ask you particularly about risk of sexual harm orders. You said in your written submission:

"However, there do appear to have been instances where the requirement for application within three months of relevant conduct being reported has been a barrier to progressing an application. In addition, the orders are only available for those children under 16 years of age and where potential victims are now older than 16 at the time of reporting, orders were not considered."

Why is there not retrospective application? Surely an offence is an offence and a concern is a concern. Are you able to expand on that? I know that you go on to say more in your submission.

**Assistant Chief Constable Graham:** I can do but, before I answer the question, I would like to make a correction to the figures that were submitted. On further scrutiny yesterday, I realised that they were incorrectly attributed, which gives the wrong impression of the number of live orders. The bottom paragraph of the first section on the use of risk of sexual harm orders says:

"There are currently 23 live orders, 10 of which are Interim Orders."

It should have said, "10 of which were interim orders." Those orders have lapsed, which means that there were 13 live orders in place. The magnitude is still relatively small and, therefore, the correction does not change the nature of the discussion that we are having. I should add that, if we take the 10 away, it does not leave 13 live orders now, but 11 because one full order has lapsed since we did that work and one of the individuals with an RSHO moved to England and Wales and their record transfers with them.

**The Convener:** Does that mean that the jurisdiction of the order continues in England?

**Assistant Chief Constable Graham:** Yes—that is right. The way that we manage the risk of sexual harm orders is the same as the way that we manage other civil orders. Sex offenders are recorded on a national United Kingdom system called ViSOR—the violent and sex offenders register—which allows us proactively to manage cases and ensure clarity of ownership through the person in the police or the criminal justice system who is taking a lead for the arrangements that are connected with a particular offender.

In the main, ViSOR is used for registered sex offenders, of which there are some 4,600 in Scotland. I think that there are about 3,600 in the community. There are 472 sex offender prevention orders, which the chief constable can seek or the Crown can seek on conviction. That provides some scale: the number of risk of sexual harm orders that are applied for is relatively low.

John Finnie asked about the limitations on RSHOs. There is a restriction in the 2005 act that the application must be made within three months of the conduct being reported. I think that the point behind the question is to ask whether the time

allowed should be longer. Our view is that it would be helpful if it was, albeit that we accept that there may be a requirement for some limit, given that the act prescribes the minimum length of time for which an order can be sought.

On the age limitation, in common with many other developments in the law more recently, we find that people are rightly considered to be children when they are under 18, not under 16. Therefore, there is a gap. If we identify somebody for whom an order would be relevant and who is aged 16 or 17, the legislation allows us to invoke child protection procedures. Indeed, we should consider further legislation to list the offence on a schedule as a child protection offence. However, the current legislation does not allow us to apply for an order.

**John Finnie:** I have a few more questions if I may—

**The Convener:** Mr Graham, you say in your submission that you have no data

“for occasions when ... applications were declined at Court.”

Would that be useful?

**Assistant Chief Constable Graham:** It would be useful.

**The Convener:** Why can you not have that?

**Assistant Chief Constable Graham:** I have since done a bit of work on that by going and speaking to the lawyers personally and have discovered that none of the risk of sexual harm orders that we have sought has gone to a proof hearing. That means that the evidential basis for them, which is on the civil proof, has never been challenged and, therefore, none has ever been rejected. Some of the interim orders have been challenged and later revoked, but they have always been granted initially. I hope that that is helpful.

**The Convener:** How many live orders do we currently have? I have lost track.

**Assistant Chief Constable Graham:** There are 11 live orders.

**The Convener:** Are you saying that, because each order was just accepted by the party against whom it was sought, you are not able to say how many were declined because they were not challenged.

**Assistant Chief Constable Graham:** That is right.

**The Convener:** Were any challenged? Were only the interim ones challenged?

**Assistant Chief Constable Graham:** They were challenged only subsequently. At the point at

which they were granted by the court, none of them went to an evidential hearing.

**The Convener:** I am just trying to get a complete picture of appeals and how successful the applications are under the civil burden of proof and standard of proof.

**Assistant Chief Constable Graham:** The short answer is that we do not have any experience of that.

11:00

**John Finnie:** My question is for the panel generally. In evidence from Children 1st and Barnardo's, there is a sense of frustration. I wonder if there is a perception issue here and that—just to play devil's advocate—things are not as bad as people imagine. Perception does feature in people's attitudes to crimes, I am sure. I wonder also whether there is a link to something that Children 1st said. It said:

“The lack of data and national reporting of statistics relevant to sexual offences, offenders and use of statutory powers is an ongoing concern. If anything, there is less available data than there was a few years ago”.

There is also the suggestion that Children 1st would welcome one national data set. Could the panel comment on that, please?

**Assistant Chief Constable Graham:** I would very much welcome one national data set. We have managed to improve the situation with the creation of a national police service; we have brought data together into one place as best as we can with the information technology systems that we still have. As an example of that and to put some scale on it, we know that in 2013-14, 1,590 people reported that they had been raped. They did not all report that they had been raped during that year; some of the reports were historical. About a quarter of those 1,590 crimes were against children. I think that is a really big number of children reporting that they had been raped, or people reporting that they had been raped as children. It dwarfs some of the numbers that we are speaking about in relation to this quite discrete piece of legislation.

If we were to put together something that looked at all the offences in which children are the victims—whether of physical or sexual abuse or child sexual exploitation—as one data set, we would all have a much clearer picture of all the efforts that are being made and, most important, as Mr Finnie highlighted, where we need to continue to learn and to look at where the gaps are for the future.

**Catriona Dalrymple:** It might assist Mr Finnie if I quote some statistics that I have on convictions under the Sexual Offences (Scotland) Act 2009.

We have managed to break down the cases in which a child between the ages of 13 and 15 was the victim, and in which a child under the age of 13 was the victim. I will just use the last two years as an example. In 2012-13, we had 213 convictions of people in cases in which the victim was between the ages of 13 and 15, and 87 convictions in cases in which the child was under 13. The figure encompasses all the charges under the 2009 act; as committee members will be aware, a large variety of charges are available under that act. In the last financial year, 2013-14, there were 151 convictions in cases in which the child was between the ages of 13 and 15, and 57 convictions in cases in which the child was under the age of 13. For that year, there will probably still be a significant number of cases on-going.

Those figures have to be taken into consideration when you are looking at the age of the victims under the Sexual Offences (Scotland) Act 2009 because there are so many offences under that act that capture a lot of the behaviours that we are talking about when we talk about sexual exploitation in furtherance of sexual abuse.

I can write to the committee and follow up with the statistics, if that would be helpful.

**The Convener:** Data are important to the committee, so it would be good to know how many of these are historic cases—if I can use that awful term—in which adults are at last coming forward. Would it be possible to get that information as well?

**Catriona Dalrymple:** I do not think that our database can give us that information, but there might be some sampling that we could do to give you a flavour of it.

**The Convener:** That would be useful to the committee because there is an issue about people coming forward. As you say in your submission, it can take not months but decades for some people to come forward and speak about what has happened to them.

**John Finnie:** I will ask one brief final question if I may, convener, about the challenge in respect of the different roles of the agencies. If we take a child-centred approach, there might be cases in which it is not in the child's interests to progress matters in a certain way. What reassurance can you give that a known offender or someone who is clearly an offender is not going to slip through the cracks? Is that the role of the orders?

**Assistant Chief Constable Graham:** You make a fair point. That is one of the roles of the orders; they also fill a discrete gap in relation to the evidence that we need to present to meet the basic criteria, as you will see from the submissions.

There is a range of other things that we need to do more of to ensure that perpetrators do not slip through the gap, one of the most important of which is to secure wider awareness of, and to challenge, behaviours that are of increasing concern in society. Children and young people could be at risk as a result of the opportunities that exist through digital communication. We are increasingly picking up a normalisation of the sharing of sexual images, for example, with young people being under pressure to participate in such activity, which in our experience can lead to contact offending. We need to be up front and to have conversations about that stuff, very publicly. We need to ensure that young people who take part in such activity—young people are often offenders, too—are aware that it is not a healthy part of a relationship and will constitute criminal behaviour. Legislation provides one means of intervening to protect people and ensure that perpetrators can be controlled, but much wider education and communication are needed for the public and all agencies that work in the area.

I tried to articulate that in a balanced way. We are doing a lot, but we have more work to do, and the problem is continuing to grow.

**Catriona Dalrymple:** It is important to note that if the civil order is breached a criminal offence is committed. Members will see from our submission that since 2009 we have prosecuted 37 breaches of risk of sexual harm orders, out of 31 orders that were in place, which means that an order has been breached more than once and the person has been robustly prosecuted.

**John Finnie:** I probably did not frame my question quite right. I am sorry. I wanted to ask about joint investigations that involve a police officer and a social worker, who will have shared interests as well as interests that are unique to their professions, because historically there has been tension in such situations. How can we ensure that perpetrators are swept up if it is ultimately deemed to be not in the child's interests to proceed formally with prosecution?

**Assistant Chief Constable Graham:** Orders have a part to play in that. I would like us to push the boundaries of where we can get orders and I would like it to be tested in court, so that we understand the limits of the legislation, with the intention of ensuring that children are protected, where we have information that that might be needed. Plans to co-ordinate the approach nationally are developing, so that we can pick up and highlight cases in which such an approach is applicable.

As I think that you inferred, the police will always set out to gather evidence to the standard of proof that we can expect for a case that is going to a criminal court. We do not seek to gather evidence

on the premise that we will seek a civil order—that is largely not in the mindset of the police. We need to make a bit of a shift to ensure that a civil order is regarded as a viable alternative if we do not get sufficient evidence to make a report to the Crown Office and Procurator Fiscal Service. I emphasise that the line between the two approaches is quite fine, because to secure a civil order we must still be able to evidence, albeit to a different burden of proof, that someone has contacted someone on two occasions and that they have done so with the intention of engaging in sexualised activity, as I think it is classed.

In my previous answer—I apologise if I talked at length without answering the question—I was talking about the most effective way of protecting children. We have a shared interest with social services and other agencies in ensuring that the child's interests come first. In the medium and longer terms, the most effective way of doing that is to influence the behaviour of perpetrators. We need to ensure that the responsibility for committing offences rests firmly with the perpetrators, while doing everything that we can do to protect young children. An awful lot of the public debate has focused on identifying victims, as we have seen over the course of the past year. The police are interested in identifying perpetrators, bringing them to account, ensuring that they are held responsible, and trying to prevent more people from becoming offenders.

**John Finnie:** Thank you. That is reassuring.

**Roderick Campbell (North East Fife) (SNP):** A lot of the points that I was going to raise have been covered.

Reference has been made to the Rotherham inquiry. I will cite some of *Holyrood* magazine's interview with Professor Jay:

"I don't know the situation in Scotland, I'd hesitate to be critical, but it's an interesting phenomenon, I don't believe low levels of convictions means low levels of crime,' she says, albeit holding out hope that recent victims and witness legislation might provide better protection and support for vulnerable young people going through the court process."

Would anyone like to comment on that?

**Stephen McGowan (Crown Office and Procurator Fiscal Service):** It is undoubtedly true that low conviction levels do not necessarily mean low CSE levels. The committee asked about data sets: it is vital that we have more data on the issue.

The new legislation will assist in helping victims through the court process by breaking down some of those barriers. Professor Jay's remarks about what the number of convictions means in relation to child sexual exploitation are legitimate. There is probably no correlation between the number of

convictions and the amount of child sexual exploitation, but we do not have the data to look at that.

**Assistant Chief Constable Graham:** I met Professor Jay after her report came out because, given her extensive experience, we want to get as in-depth an understanding as we can of what she uncovered and then try to put that into the context of what is happening in Scotland based on an in-depth understanding of how the Scottish system works. She has acknowledged that the relationships between the police and the Crown Office and Procurator Fiscal Service and the police and the Crown Prosecution Service in England and Wales are very different. That might answer in part some of that question.

However, the fundamental point is that we cannot be reassured that child sexual exploitation is not going on just because there is no prima facie evidence of it being reported to us. We are increasingly aware that we will only find out when we proactively go looking for it. We have been doing that and a number of operations are in progress that have been in the public domain to a greater or lesser extent because of the interagency activity that has led to them. Although I cannot give precise details as some of the prosecutions are in progress, some of the on-going activity is evidence of the increasingly proactive approach that we are taking.

The other question that I have been asked a lot since Rotherham—I hope that it is helpful to relay this—is whether "Rotherham" is happening in Scotland. Colleagues, leaders in other partnership organisations and elected members find that to be an appealing question to ask and to understand. The answer that I give is, "Well, that depends what you mean by 'Rotherham'."

The report goes beyond implication and describes a clear history of victimisation and abuse. It is a troubling and traumatic journey for the reader, never mind those who experienced the victimisation and the abuse, which is eloquently described in a concise report that covers a lot of ground. It is clear that there was such a large amount of information about the scale and prevalence of what was going on in Rotherham that so many people knew about.

The report implies that there were active efforts for a long period to suppress that information. If the question is whether that is happening in Scotland, the answer is absolutely not. Absolutely no information has come to my attention about any large-scale or extensive co-ordinated group that is conducting child sexual exploitation on the scale that was described in that report. If it had, we would be conducting investigations.

11:15

However, if the question is whether there is child sexual exploitation in Scotland's towns, cities and rural areas, the answer is yes. We know that there is because we are investigating it—successfully in many cases—and we increasingly understand that the way to approach those investigations is by working more closely in partnership from the outset, making sure that there is strong, consistent and effective support in place for the victims, to enable them to understand and provide an account of what has happened to them, with the hope and expectation that we can bring that into the justice system, although the primary focus must be on the interests of the child.

One of the on-going operations that I mentioned is an example of that. Operation dash is a widespread operation focusing on a premise of child sexual exploitation in the west of Scotland. Fifty-five crimes have now been recorded under that operation, against 22 different accused persons. Twenty-three reports, which is a large number, have been submitted to the Crown Office and Procurator Fiscal Service, and some of those cases are in train. As I mentioned in my submission, one of those accused persons is due to be sentenced tomorrow in a case that includes a section 1 grooming offence.

The other charges that are being preferred include nine rape charges, five other sexual assault charges and various sexual coercion charges, as well as various other non-sexual but violence-related offences. I am not able to go into more detail about those cases, but details will unfold on a case-by-case basis. It is important to highlight the strength of the efforts that have gone into tackling cases based on the information that we receive.

**The Convener:** The committee would not expect you to go into your operational methods either, because you would be disclosing them to people who are listening to our proceedings and who might think, "If that is what you're up to, now I know what to do differently." We appreciate that.

**Catriona Dalrymple:** The Crown has also met Professor Jay. One of the lessons learnt from her report is about the approach to decision making by prosecutors down south. I want to reassure the committee—I am sure that the Lord Advocate said the same when he was here—that the approach to making a decision in such cases is entirely different.

Historically, down south, the approach to decision making involved looking at the credibility of the victim. We will obviously take the credibility of the victim into consideration, but we look at the credibility of the allegation that has been made and at what evidence there is to support it. The

victim's credibility will be one part of that, of course, but we absolutely recognise that there will be occasions on which victims will not tell us the truth, for very sound reasons, because they are scared.

Stephen McGowan may want to say more about a bespoke, individual victim strategy in all High Court cases where there is serious sexual offending.

**Stephen McGowan:** The victim strategy is something that we introduced in the spring of this year. It looks at the support that a victim needs as an individual person going through the process of investigation and prosecution. At the same stage as the evidence is being gathered and decisions are being made about the evidence on the case, we look at the victim as a person and at what level of information they need about the case, what their background is and how they are supported throughout the whole process.

All of that is done with a view to having an early meeting with them to explore the situation and to tell them what we can do and to signpost them in the direction of other people who can assist them. All of that is about managing the victim's experience of going through the criminal justice system. It is done in every sexual offence case, but there is a particular focus on it in cases of child sexual exploitation where there are additional vulnerabilities—more than would be the case for a complainant in a sexual case—because we know that those victims have some of the most complex needs of any of the people we will deal with in the criminal justice system.

That is something that we introduced recently and it has all been managed through our national sexual crimes unit, which, as the committee will be aware, was the first unit of its kind to be introduced in Europe. It was introduced in Scotland in 2009, and we have a network of sexual offences teams throughout the country who are involved in local liaison with the police in bringing those cases to the specialist Crown counsel at NSCU to make the decisions.

It will be interesting for the committee to note that the volume of sexual offences that we deal with generally has increased recently and that a substantial proportion of that involves offences against children. Of our 36 advocate deputes, 20 are now based in the national sexual crimes unit and 20 are specialist sexual crimes prosecutors. Additional resource has therefore been put into that area of our business to improve the way in which we take those cases forward.

**Roderick Campbell:** That is very helpful. I have a small further question, but before I ask it I just want to refer to Professor Jay's executive summary for the Rotherham report, in which she

commented on changes between 2009 and 2013 in dealing with child sexual exploitation:

"The Police are now well resourced for CSE and well trained, though prosecutions remain low in number."

That is an indication of the complexity of some of the issues.

I have a question for ACC Malcolm Graham. I am slightly confused about what your submission means by the "strategic analytical profile". Can you give us a bit more information on that, saying how it has been developed and how it will assist?

**Assistant Chief Constable Graham:** That is a piece of work that will be driven by all the intelligence and information sources that Police Scotland can gather together. It follows directly from a recommendation in the report by the Public Petitions Committee, which rightly stated that there was insufficient data on child sexual exploitation in Scotland. Similarly, Professor Jay started her report by saying that nobody will know what the true scale of the child sexual exploitation in Rotherham was or is. I think that that is also the situation in Scotland.

The Public Petitions Committee recommended that there should be a strategic analysis of information that is held, and we have conducted that. The report is a restricted document in terms of the information that it holds about the data sources that it has drawn from. It looks at all the areas that we have discussed this morning. However, the sum total of its findings for me is that it will tell us only what we already know and that it does not give us a representation of the true scale of the problem.

In advance of the ministerial working group on child sexual exploitation, the Scottish Government commissioned a study from the University of Bedfordshire, which is known to be a leader in academic research in this field. That study came to a similar conclusion, although I would not say it characterises all the academic research, which is that more research needs to be done to establish accurately the scale of the problem.

As I said previously, we will always underestimate the scale of the problem if we use only the data that we hold, because we know that we do not hold data about everything that is going on. An example from wider sexual offences data is that the best assessment that we have from Scottish crime survey data is that probably only 20 per cent of serious sexual crimes are reported to the police. As I said earlier, 1,590 rapes were recorded across Scotland last year, and the best assessment from independent survey data is that that is 20 per cent of the crimes that have happened.

I think that we have to acknowledge that we are never going to know the true scale of child sexual exploitation. Increasingly, we need to work together so that we can continue to develop the likes of the strategic analysis that the police have done, which draws on the available data from the third sector and statutory agencies. One way of continuing to develop that would be to work with the Government and other agencies in a more coherent fashion. We are working towards that at the moment in order to join up all the information that everybody holds, but I still do not think that it will ever give us a complete picture of what we are dealing with. We need to get on with the action that addresses the problem in that knowledge.

**The Convener:** Can I just ask a really stupid question? If only 20 per cent is reported to the police, how do you know that it is 20 per cent?

**Assistant Chief Constable Graham:** That figure comes from the independent Scottish crime and justice survey, which I think came out in July this year. I think that it comes out every two years now. A statistically valid number of people from across Scotland are surveyed about their experience of crime and justice to try to get a more accurate figure for the amount of crime than is possible from that recorded by the police. I think that it is widely acknowledged that crime recording figures are only a picture of what is reported.

**The Convener:** I understand that. So it is a random sample of people.

**Assistant Chief Constable Graham:** I do not think that it is random—but I must say that, on the survey, I am getting into territory on which I am not an expert.

**The Convener:** We will need to find out. Can anybody help me with that? How do you know that 20 per cent figure?

**Assistant Chief Constable Graham:** Well, I think that it is the—

**The Convener:** Excuse me a minute—I am being helped.

**Roderick Campbell:** I believe that the Scottish crime and justice survey involves a representative cross-section of the population.

**The Convener:** So it is a representative cross-section.

**Roderick Campbell:** Yes.

**The Convener:** It is what I call random. People give their experiences and, from that, we can say that 80 per cent of people do not report such crimes.

**Assistant Chief Constable Graham:** That is what the survey says. Specific modules have been developed on sexual offending, and it includes

different age strata. I do not have the survey in front of me, so I am quoting from memory.

**The Convener:** I just wondered about that. I have taken myself where I did not want to go, but there we are. That was helpful. I thank Roddy Campbell for helping me out, too.

Next we will have Elaine Murray, followed by Alison McInnes, followed by Graeme Pearson—followed by Sandra White.

**Elaine Murray (Dumfriesshire) (Lab):** I was struck by ACC Graham's evidence on the risk of sexual harm orders, and particularly the point that, at present, activity has to have taken place on at least two occasions before a civil order can be imposed. ACC Graham argues that it should be reduced to one. Is there any argument that one should not be enough, particularly given that that does not trigger a criminal prosecution at that point?

**Assistant Chief Constable Graham:** I do not think that there is. It is bizarre that, in the vast majority of cases in which we identify that there has been a sexual contact, we have to wait to see whether another contact happens before we can apply for an order. In many cases in which we identify two forms of sexual contact, that constitutes an offence that we would report in any case, rather than go for an order. That is why I say that there is quite a discrete band of circumstances in which we would apply for an order and would not report to the Crown.

I would like to see more circumstances in which we apply for risk of sexual harm orders alongside reporting information to the Crown and use the civil orders more proactively in that manner. We have plans to do that, but that has not yet come through in the figures.

**Elaine Murray:** My other question is on education. Given the exposure of young people to pornography and other aberrant forms of sexual behaviour online, they can clearly feel that those behaviours are normal if they do not have the appropriate education. I do not want to stray on to another petition that has had a bit of publicity recently but, in your view, is the education that is offered to young people nowadays sufficient to address the problem by enabling those who might perpetrate such behaviour to realise that it is an offence and by giving potential victims the confidence to refuse such approaches?

**Assistant Chief Constable Graham:** More needs to be done to assess the impact and scale of the problem relating to new digital technologies. To be frank, the people who make the decisions about the policy and the laws do not in the main actively use those technologies on a daily basis, and I include myself in that category.

We need to get into the mindset of what it feels like to be in that situation. I am talking not about 13 and 14-year-olds but eight, nine and 10-year-olds who probably have a fairly active digital presence and who live their lives through some sort of virtual or online community in a way that many of us could never have conceived of in our childhood and probably have some difficulty identifying with in adulthood—I speak from personal experience. Education has to be at the heart of making sure that people understand what is and is not acceptable and healthy. From everything that we see, there is a huge chance that that is not the case.

In relation to child sexual exploitation, education authorities need to understand and pick up on the fact that children are likely to be exposed in some way to something during their school life that could lead to such behaviour. We need to make children and young people aware of that, but we also need to make the schools more aware of it and ensure that teachers and staff, who are key, are well informed about what is happening.

That was laid out starkly in the Rotherham report. It struck me that there were a number of instances in which young girls who were being abused were picked up by taxis from the school gates to perform sexual acts on some of the perpetrators and then returned at the end of lunch time. That is a particularly traumatic account of somebody's school day. It was not picked up and acted on timeously by the education authorities.

I am not saying that there is any experience of that in Scotland, but it is a salutary tale that we should never be complacent about the potential for people who are at school to be targeted.

11:30

**The Convener:** I call Alison McInnes, followed by Graeme Pearson—followed by Sandra White.

**Alison McInnes (North East Scotland) (LD):** Ms Dalrymple said when responding to Margaret Mitchell that the professionals all know what they are dealing with when it comes to what constitutes grooming and child sexual exploitation. However, one of the saddest things about the Rotherham inquiry findings is that the police considered children as young as 11 to be consenting to sexual behaviour, and we read evidence of the police considering girls to be undesirables and not worthy of protection. That is one of the most appalling things that has come out of the findings—girls who were most vulnerable were not given protection.

ACC Graham, you say in your submission that you have tried to embed the understanding of CSE within Police Scotland. Will you give me a greater

understanding of the extent to which there is still learning to be done in the force?

**Assistant Chief Constable Graham:** Okay. I will cover a bit of what we have done.

Much of the culture that you mentioned that Professor Jay highlighted in her report went back to an earlier period during the journey between 1997 and 2013, which the report covered. I think that Professor Jay acknowledges in her report that that behaviour was clearly no longer evident in South Yorkshire Police as a result of action that the force had taken.

We have embedded the culture change by building on the ethics and values on which the police service is based and on which Police Scotland was founded in every strand of training for front-line officers, from when they enter the organisation through into probationary training and the training of specialist detectives, who are likely to be the people who conduct the relevant investigations in different roles.

We have also made sure that there is a high level of awareness through senior management of the issues that need to be tackled and the leadership that needs to be shown throughout the organisation to ensure that people are well attuned to picking up any aberration from the culture that we rightly expect, in which every young person is recognised and valued as an individual and there is no attribution of their worth in the way that Ms McInnes described because of the circumstances in which they find themselves. That leadership is also needed to ensure that every investigation is dealt with fairly and appropriately so that we do everything that we can to bring any perpetrators to justice.

As you describe, it is clear from the report that that was not always the case in South Yorkshire Police. I am very clear that, if we find any circumstances in which it is not the case in Scotland, they will be dealt with robustly.

**Alison McInnes:** That is reassuring.

Another thing that was highlighted in the Rotherham inquiry was that children who absconded from care were escorted back to care without any interview or any understanding of what was going on. Will you explain what happens if you are involved in taking back children who have absconded?

**Assistant Chief Constable Graham:** We have done a huge amount of work around missing person inquiries. We started that by getting a better understanding of what was happening throughout Scotland. To go back to the question from Mr Campbell, we did a strategic analysis of the data that we held about people who were missing, not just young people. Perhaps it is not

surprising that that flagged up that the most frequently identified locations for people to go missing from in each of the 14 local policing divisions were hospitals and care homes for young people. Normally, both of those featured heavily in the top 10 sites.

Each of the local policing divisions now has a plan to engage and work with those institutions to try to get a better understanding of why people go missing and to reduce the number of instances of people going missing. Most importantly, when people go missing, we now have a robust policy on return interviews. The interviews must be conducted by the police and must then be communicated to either the parents or, in many cases of vulnerability, the carers of the young people who have gone missing. That ensures that we get all the information that we need, which would flag up any concerns.

That does not mean that we just stop because we expect that, because a young person has gone missing on frequent occasions, they will provide an account if they are being sexually exploited. In fact, we know that it is highly unlikely that they will provide an account. However, it gives the police a far better sense of what is happening in that young person's life at that point. We can then share the information with all the other agencies that can provide support. Hopefully, that will lead to that young person being protected if they are at risk of harm, or any information that would lead to a criminal investigation coming to the police.

**Alison McInnes:** For that return interview, could you work closely with the third sector—perhaps Barnardo's—to provide a more supportive environment where the children might open up a bit more about what has happened?

**Assistant Chief Constable Graham:** That is one area that we are actively considering. Again, that idea came out of the work of the Public Petitions Committee and indeed from the proactive work that a number of charities are rightly doing in highlighting the role that they can play.

The police have a wide-ranging remit around protecting people, keeping people safe and investigating crime, but I understand from my experience as a police officer over many years that we are not always the agency that young people are most likely to feel that they want to share some very private, confidential and challenging information with. Therefore we need to ensure that we work closely with the people who are likely to be closest to the young people. We are discussing a number of ways of doing that locally, and perhaps nationally.

**Catriona Dalrymple:** The Crown Office and Procurator Fiscal Service recently set up an independent scrutiny panel. The first function that



we have been looking at across the organisation has been domestic and sexual abuse cases. We have invited about nine or 10 of our critical friends, as we like to call them, from the third sector on to the panel and we have police and Government representatives. The cases have been selected at random. We have cases where we took prosecutions and cases where we did not take prosecutions but where there was perhaps a detailed investigation and we concluded that there was insufficient evidence.

At the most recent panel, we considered four cases. Two were domestic abuse cases and two were of a sexual nature, one of which was a sexual case of rape in which we were unable to take proceedings. We opened up our files to the third sector representatives. It was no holds barred—they saw everything. They saw the police report, our precognitions and our analysis. They saw all the evidence that we had collated in the investigation.

The purpose of the panels relates to Ms McInnes's point about attitudes. If certain attitudes are being displayed in the fiscal service or the police service, our critical friends should pick up on them. I am glad to say that such attitudes have not been found, but I recognise that the panel looked only at a sample of cases.

Our purpose in the scrutiny panels is to test our policies. We do not want to make assumptions that we know what is best all the time. We want those third sector bodies to tell us about any issues, because we recognise that they are at the front line and are dealing with people who come into contact with the criminal justice system.

The panels make recommendations, which go to the law officers. The law officers agreed with all the recommendations from the recent panel, and we will report back to the next panel on that. We recently met Barnardo's and invited it to the next panel. We will ensure that our next panel will review a sexual case involving a child victim.

**The Convener:** In passing, is the Care Inspectorate one of the agencies that you deal with in relation to care homes for young people?

**Catriona Dalrymple:** We do not have the Care Inspectorate on our review panel, but we can consider that.

**The Convener:** I was actually looking at Assistant Chief Constable Graham, given that we were talking about a home in England that, to put it mildly, was not properly managed. Do the police deal with the Care Inspectorate?

**Assistant Chief Constable Graham:** We do.

**The Convener:** That is all that I wanted to know.

**Assistant Chief Constable Graham:** We work closely with the Care Inspectorate as it develops its inspection regime. The point about Rotherham is interesting because, after reading the report, one point that arises is that a large amount of inspection and scrutiny of what was happening took place in Rotherham over many years. A timeline in the report starkly lays out that people not only sought but took reassurance from the reports that were issued. That shows that we all have a role to challenge the scrutiny and inspection regimes that are in place to ensure that they are working properly.

As a result of that, the Care Inspectorate sits on the Scottish Government-led ministerial working group on child sexual exploitation. That group's action plan, which was developed by the police and the other agencies round the table, will be launched soon. As a result of the Care Inspectorate learning from that and everything else that is going on, it has introduced a specific module on child sexual exploitation in the children's services inspections that it carries out in each local authority area. I have asked for a summary of its findings as quickly as possible, including any common themes that are emerging. I think that the Care Inspectorate is alive to the point.

**The Convener:** That is helpful, with regard to what we hope will be a tighter inspection regime.

**Graeme Pearson (South Scotland) (Lab):** The Crown Office's opening of files in the way that Ms Dalrymple mentioned is probably unprecedented and is to be welcomed. In that light, Mr Graham, you mentioned a restricted document that had been created in relation to the strategic assessment. Is that document shared with your partner agencies? Do they feed into the document after they have read it?

**Assistant Chief Constable Graham:** That is a good point. I think that I covered it when I answered Mr Campbell's question. At the moment, what you describe does not happen to the degree that I would like. We need to get a greater level of co-operation on that document. In fact, I would like it to be led by the Scottish Government as a piece of work that we could all feed into equally. Quite rightly, the Public Petitions Committee's recommendation was that the police should start by analysing the information that we hold and anything else that we can access.

I do not think that we have accessed everything that we can from across the third sector. The information that is perhaps most important might be hardest for us to reach, as it might be held by a small service or agency in a local area that has a good relationship with young people. I need to ensure that the voices of those organisations can be heard at national level.

With regard to sharing the results, you will understand that, because of the level of detail and attribution that it contains, doing so in the format that it is in is impossible. However, down the line, I would like to produce a document that gives an assessment of the scale and nature of the issues and gives people confidence that we are serious about tackling the problem and trying to get a better understanding.

**Graeme Pearson:** As an action point, from here on in, would it be feasible to share the strategic assessment in the kind of environment or forum that the Crown Office described?

**Assistant Chief Constable Graham:** Absolutely, yes.

**Graeme Pearson:** Before I come to my more substantial question, I have a question about IT links and the ability to collect information in the service and from across the agencies. Are you confident that we have the sort of IT collection processes that give the knowledge that is necessary for the decisions that are taken?

**Assistant Chief Constable Graham:** As ever, there is a strengthening picture on that. We have introduced a vulnerable persons database with that very purpose in mind.

**Graeme Pearson:** It is a very old and clunky system. Do you feel that the systems are in a fit state to enable you to properly access the necessary knowledge, intelligence and facts?

11:45

**Assistant Chief Constable Graham:** The vulnerable persons database is a new interim system that was designed in Police Scotland and launched after the inception of Police Scotland. It is not an old and clunky system. It gathers information from across the country about a range of vulnerabilities and allows the police to link different vulnerabilities between children and adults, whether they relate to domestic abuse, child protection, concerns about a child that might not reach the level of statutory means of intervention for protection, hate crime, missing persons or youth offending, which can be a sign of a young person who is in trouble for a whole lot of reasons that we need to look behind.

That system is up and running across Scotland. It allows Police Scotland to understand when people move from one area to another within the country, which is absolutely vital. It also allows us to develop protocols in each of the local areas in which we work with whatever information-sharing systems there are. The system is not joined in a strategic sense to a national system beyond the police, but then there is no such national system in

local authorities or healthcare that we could plug into for that reason.

The next stage of the system will come under the i6 programme, in which there will be a vulnerable persons module that will build on the learning of the interim vulnerable persons database that we have developed. It is a fantastic credit to the people who have worked on it, because it is a real success. We have got it up and running and we are gathering information and sharing it. It puts the police in a strong position to understand what we know across the country in a way that we could never have conceived of doing before Police Scotland was created.

**Graeme Pearson:** Earlier, you gave us statistics that outline the reporting of possibly up to 400 child rapes a year, and you acknowledged that that might be only 20 per cent of the actuality. With the 4,600 sex offenders who are known to us in the system, do you feel that the multi-agency public protection arrangements are currently fit for purpose? Would you welcome a review of MAPPA to see if the arrangements can be upgraded and refreshed?

**Assistant Chief Constable Graham:** Again, that is a very current question. The Care Inspectorate is launching an inspection of MAPPA across the country. It will be supported by Her Majesty's inspectorate of constabulary for Scotland, and we are working closely with the inspection agencies to shape what the inspection should look like and ensure that there is scrutiny of the effectiveness of the arrangements.

Our position is continually evolving. The system is largely effective. The legislation is effective and the nature of the interagency working is leading to a lot of people being protected. It is very difficult to put a figure on that, but the scale of the issue—there are 3,600 sex offenders in the community in Scotland, and 472 prevention orders are being actively policed—gives members some measure of the scale of the resource that is being applied across Scotland, and it is having a positive effect.

**Graeme Pearson:** Yes, but I was asking for your personal opinion on the basis of your experience. Do you welcome the review of MAPPA? Would you like the arrangements to be refreshed for the challenges that are now being identified?

**Assistant Chief Constable Graham:** I would like to wait for the outcome of the inspection to see what its findings are. At the moment, I am satisfied that we are working well in partnership and that MAPPA is having a positive effect.

**The Convener:** That figure of 3,600 sex offenders is huge. Perhaps you could clarify what range it covers. Does it cover everyone who is on

the sex offenders register? I am just trying to get a grasp of it.

**Assistant Chief Constable Graham:** I can probably give the committee the precise figures; that would be more helpful. It covers everybody who is on the sex offenders register, which means all those who have committed an offence and been required to register since 1998, and who have not come off the register. The number is always growing, because a proportion of the people who are required to register are required to do so for life, so they never come off it. That figure of 4,600—

**The Convener:** Did you say 4,600?

**Assistant Chief Constable Graham:** That is the total number, but 3,600 of those are in the community. Those are rough figures; I have the exact figures here, if I can find the right page.

**The Convener:** I think that people would be frightened to hear that 3,600 sex offenders are out there. I am trying to get clarification of what you mean when you say that 472 prevention orders are in place, so that we can get a perspective on the issue.

**Assistant Chief Constable Graham:** I have found the right page. There are 4,650 people who have been required to register on the sex offenders register under the legislation. Of that number, 3,604 are in the community and 1,046 are still in custody. We have 472 live sexual offences prevention orders. A sexual offences prevention order is a civil order that the police can apply for, or which can be applied at the point of conviction, that prohibits a registered sex offender from engaging in a certain course of conduct or that requires them to do something. For example, it might prevent someone from entering a certain area or approaching a certain person. We can police that. Although it is a civil order, a breach of such an order is a criminal offence, which would be reported to the Crown Office.

A sexual offences prevention order is a means of controlling someone who we know poses a higher risk than many of the sex offenders who are managed in the community. All that information is in the public domain through the annual MAPPA reporting, although the figures are perhaps not as current as the ones that I have given.

**The Convener:** I do not think that everyone reads that. If someone was listening to the committee and heard that there are 3,600 sex offenders out there, they might be concerned that that was the number of rapists and people who have committed serious sexual assaults. I am not diminishing sexual offences; I am asking for clarification of what that figure means.

**Assistant Chief Constable Graham:** I am sorry—it relates to the full range of the legislation that would be encompassed by the act that requires people to register. Someone from the Crown Office might be better able to give the details on that.

**Stephen McGowan:** It relates to any offence that involves a substantial sexual element, from rape to breach of the peace. It relates to that whole range of potential offences.

**The Convener:** Yes, I understand that—I am just trying to get on the record what the range is. I am not sure that that has helped me particularly, but the 3,600 figure would be quite startling to anyone listening if they thought that that number of very serious sex offenders were out there. All sex offenders are bad, but there is a range. Is there any way to clarify what that range is? You said that there are 3,600 sex offenders in the community. How could we clarify the various categories? Where would we find that information?

**Assistant Chief Constable Graham:** I would have to go away and look into that.

**The Convener:** I think that that would be useful information to have.

Sandra is next.

**Sandra White:** I need to remember that, if I ask a supplementary, I will be put to the very bottom of the list.

**The Convener:** Oh, now, now.

**Sandra White:** I will certainly remember that.

**The Convener:** I assure you that, if you are going to be piqued in that way, you might slip down again without asking a supplementary.

**Sandra White:** I am sorry, but I have to say that that should apply to everyone who interrupts, but apart from that—

**The Convener:** Excuse me a minute. It is not a good idea to challenge the chair, but proceed.

**Sandra White:** I am not challenging anyone, convener.

**The Convener:** Oh well.

**Sandra White:** Thank you very much for your evidence, panel. I have listened to what you have said about the projects that you are involved in—you are doing an absolutely fantastic job. Obviously, there are questions to be raised.

I was pleased when you mentioned that you are working with voluntary sector organisations, such as Barnardo's. I have visited Barnardo's to see how it approaches the issue and the projects that it has on grooming and young children.

Before I ask a question, there is an issue on which I seek clarification. ACC Graham mentioned the risk of sexual harm orders and the fact that he wanted some amendments to be made to the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005. We have not explored that issue as much as we could have done. My understanding is that you would like the three-month period to be extended and the age group to be extended to 18, and that you would like physical and psychological abuse to be taken into account. Those are your recommendations to the committee, which came from the Public Petitions Committee.

**Assistant Chief Constable Graham:** I do not think that those recommendations came from the Public Petitions Committee. It went as far as to suggest that it might be worth examining how the legislation could be enhanced. Those are our suggestions about how to do that.

We have not put a time limit on what the application period should be extended from three months to. I understand that there might be an issue of proportionality, but three months is constraining. I made the point that we seek to gather evidence about a potential crime being committed. That sometimes takes some time. We will have discussions with the Crown Office and Procurator Fiscal Service. It can be the case that, by the time we would get to the stage of seeking an order, the three months have already passed and we do not have any evidence of further reporting. There have been some instances of that.

I already spoke about the age limit, which leaves us in a difficult position. In effect, 16 and 17-year-olds are treated by the law as children in many cases, and it would be consistent if that were the case in this area especially.

The third point concerned courses of conduct, which we discussed earlier. It is unusual for us to identify one contact about which we are concerned and to have to wait for a second to make an order. Indeed, one sexual contact could be evidenced as a crime, but it would not be enough for an order, because it was not two separate contacts. I am not sure what lay behind the drafting of the legislation, but it is overly restrictive.

**Sandra White:** Thank you very much. That gives us something positive to go forward with.

I have a question about cross-border issues. You mentioned that, if somebody commits an offence in Scotland and moves down to England, the order will go with them. You also mentioned that, if someone from Scotland commits an offence in France, you can do something about it because Scotland has jurisdiction but, if they commit an offence in England, you cannot. Will

you elaborate on that? What could the committee do to rectify that anomaly?

**Assistant Chief Constable Graham:** It is probably better for the Crown to answer on the legal position on taking a prosecution. It does not limit the police investigation as such.

**Catriona Dalrymple:** I think that the Lord Advocate mentioned that issue the last time that he came to give evidence.

If I remember correctly—I am sure that my colleague will correct me if I am wrong—the difficulty is with the cross-border provisions. If a Scottish national grooms in Scotland and then goes on to commit an offence of rape, for example, in France, we in Scotland can, at the moment, prosecute the grooming and the rape. However, if a Scottish national grooms in Scotland and then commits an offence of rape in England, we are unable to prosecute that rape in Scotland. That seems to us to be a slightly unusual quandary and a loophole in the legislation.

**Sandra White:** I understand that the Cabinet Secretary for Justice is talking about legislating to sort out that loophole. Obviously, he is looking for a slot. I point that out as an area in which the committee could do something practical.

**Catriona Dalrymple:** We would certainly support that.

**The Convener:** Thank you, Sandra. That was good, because you pre-empted the question that Elaine Murray was going to ask, which is fine, because we noted that it had not been asked.

I have no other questions and there is nobody else grumping at me because they have slipped down any list in my head or on paper.

**Catriona Dalrymple:** I meant to say at the beginning that Mr McGowan and I apologise for being poor replacements for the Lord Advocate or the Solicitor General, but we went straight to questions.

**The Convener:** Poor replacements? Come, come—you protest too much. You were magnificent. In fact, you were far better than the Lord Advocate and we shall tell him so.

**Catriona Dalrymple:** I was going to say that, if you wish one of the law officers to come at a later stage, they would do so. Unfortunately, they were not available today due to existing commitments, but they would be more than happy to come.

**The Convener:** You are looking for a round of applause. You are not going to get it.

**Catriona Dalrymple:** No, no. I am not looking for a round of applause, but thank you anyway. I just wanted to make that point.

**The Convener:** I thank you and ACC Graham very much for your evidence.

11:59

As we agreed, we now move into private. I will suspend for a couple of minutes to allow the public and the witnesses to leave.

*Meeting continued in private until 12:32.*



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