OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 14 December 2022

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

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CRIMINAL JUSTICE COMMITTEE
32nd Meeting 2022, Session 6

CONVENER

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

DEPUTY CONVENER

*Russell Findlay (West Scotland) (Con)

COMMITTEE MEMBERS

*Katy Clark (West Scotland) (Lab)
*Jamie Greene (West Scotland) (Con)
*Fulton MacGregor (Coatbridge and Chryston) (SNP)
*Rona Mackay (Strathkelvin and Bearsden) (SNP)
*Pauline McNeill (Glasgow) (Lab)
*Collette Stevenson (East Kilbride) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Gillian Booth (South Lanarkshire Council)
Sandra Cheyne (Skills Development Scotland)
Keith Gardner (Community Justice Scotland)
Rhoda MacLeod (Glasgow City Health and Social Care Partnership)
Charlie Martin (The Wise Group)
Tracey McFall (Criminal Justice Voluntary Sector Forum)
Suzanne McGuinness (Mental Welfare Commission for Scotland)
Sharon Stirrat (Social Work Scotland)
Lynne Thornhill (Sacro)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 14 December 2022

[The Convener opened the meeting at 09:30]

Bail and Release from Custody (Scotland) Bill: Stage 1

The Convener (Audrey Nicoll): A very good morning, and welcome to the 32nd meeting in 2022 of the Criminal Justice Committee. We have no apologies. Members should note that Katy Clark and Fulton MacGregor will join us shortly.

I refer members to papers 1 and 2. Today, the committee will scrutinise the Bail and Release from Custody (Scotland) Bill at stage 1 of the Parliament's legislative process. We will hear from three panels of witnesses.

First, I am pleased to welcome Tracey McFall, who is a member of the executive committee of the criminal justice voluntary sector forum; Lynne Thornhill, who is director of justice services at Sacro; and Charlie Martin, who is stakeholder and policy lead with the Wise Group. We appreciate the time that you have taken to join us this morning.

I intend to allow about an hour for questions and answers. All our witnesses are attending online, so it would be helpful if members indicated who their questions are for and if the witnesses indicated in the online chat function that they would like to respond to a specific question.

Given the slight tightness of time, I remind members and our guests to keep questions and answers as succinct as possible. I am happy to open up the session to members to ask questions.

Russell Findlay (West Scotland) (Con): The latest remand figures for Scotland show that almost 30 per cent of people in prison are on remand—the figure is in the region of 1,862 of a population of 7,500. The rate is much higher than rates elsewhere in the United Kingdom and in most other comparable western European countries, and nobody can explain to us why that is the case. Yesterday, the governor of HMP Edinburgh, David Abernethy, was quoted on the BBC as saying that it is a "mystery". Can you explain the mystery? Why is that the case?

Anyone can go first, if they feel like it. If nobody wants to, I will pick someone.

Tracey McFall (Criminal Justice Voluntary Sector Forum): Good morning. There is a range of complexities around the population on remand. Some of that has to do with the alternatives to custody, and some of it has to do with the information that sheriffs need in order to make decisions on remand.

If members think about some of the questions about the bill in the criminal justice voluntary sector forum's submission, they will see that there are a few issues. Sheriffs have to be confident about community disposals. They have to have the information that they need to make those decisions, so that people can stay in the community and not be placed on remand for those assessments. There also needs to be clear release planning when people go back out into the community. Therefore, a range of complexities is involved, and I do not think that there is a silver bullet on the question. It is about information sharing, sheriffs being confident, people's range of complexities as they go into prison, and services to provide support in communities to reduce the likelihood of people being put in prison, which are pretty variable across the country.

Russell Findlay: So there is nothing distinctly different about Scotland that makes our numbers higher.

Tracey McFall: You could go back to some of the work that Harry Burns has done around communities, the dispersal of communities, mining communities, and the range of places across the country that have had difficulties in relation to drugs and alcohol over the past 40 or 50 years. In relation to Scotland, you will see a range of indications in the information about drug-related deaths that Scotland's populations use different drugs. That means that there is a higher risk of those individuals being involved with the justice system. The picture is very complex.

Russell Findlay: Would Charlie Martin or Lynne Thornhill like to come in on that?

Charlie Martin (The Wise Group): I will come in, if you do not mind.

Good morning, convener, and members of the committee, and thank you for the opportunity to take part in this session.

Imagine the remand system at the moment as a funnel. At the bottom of that funnel, there is the court system, which deals with the cases and takes forward the trials, and at the top, we keep feeding people in. Currently, we are finding that more people are spending longer periods on remand, and the court backlog is such that the courts are not able to keep up with the number who are going into the funnel at the top. That is one of the explanations that we have been getting from customers who use our new routes service. The Wise Group's submission on the bill and much of what we will talk about today has been informed by 94 responses from customers who

use our new routes service. In effect, they are people whom the bill will impact.

Lynne Thornhill (Sacro): I completely agree with what my colleague said about confidence and availability in respect of alternatives to remand. For us, however, there are fundamental issues around the use of custody, the decision making on that, and the threshold for that, in the sense that there are a number of people in custody who simply should not be there. The high remand population was referred to. For us, it is about the threshold and what custody is to be used for. As Charlie Martin said, it is about stopping a number of people going into the pipeline, particularly as we know that desistance research tells us that it is much more effective, where appropriate, for people to remain in the community on a remand or, indeed, post-sentencing basis.

Jamie Greene (West Scotland) (Con): Good morning, and thank you for joining us remotely.

I will start with a follow-up question to Russell Findlay's opening question, and I will start with Lynne Thornhill, as she was the last to speak—apologies for that. You said that some people are being remanded who should not be. Will you elaborate on that a little? Are you talking about types of offences or types of people? Are you saying that sheriffs are working with the wrong criteria or that they are working with the right criteria but are making the wrong decisions?

Lynne Thornhill: There are a number of complexities to that question. Fundamentally, there is a lack of information and evidence on what underpins bail or remand decisions. We need to understand better what is informing the decision making. What we do know is that there are a number of individuals in the custodial environment who are particularly vulnerable, have a number of vulnerabilities, and do not necessarily need to be in a closed setting from a risk-management perspective.

I completely accept that prison has a place for those who present a risk of harm but, as a society, we are possibly not doing enough to identify individuals who do not need to be in that closed setting. It is about understanding the decision-making process and ensuring that, where people can remain in the community safely—we know that there are a lot more who can remain in the community and are not in it—they should be able to.

Jamie Greene: I am sorry to keep pressing on this, but I am just picking up your language and words. Is it your view that there is a wider lack of understanding of the decision-making process, or is the decision-making process itself faulty?

Let me clarify what I mean by that. I get the impression that judges and sheriffs do not take lightly the decision to hold someone on remand, so they use all the information that has been presented to them at the time by the Crown and defence solicitors and, where necessary, social workers and other stakeholders who are involved in the case. Do you think that they do not have enough information to make the right decision—that is a bit of repetition of my first question—or do you think that, because of the backlog and the volume of cases that they are trying to get through, they are not taking enough time to look at all the factors involved in individual cases and are therefore make the wrong decisions? I am still a bit unclear about what your criticism of the system is.

Lynne Thornhill: There are a couple of points there. More can be done on the level of information that can be shared to support informed decisions. That comes across in some of the bail-specific proposals with regard to justice social work. It is clear that that will have resource implications. There are a lot of implementation issues with that.

There is also an issue to do with the threshold, which I referred to in my first response. The consultation suggests that we look at almost a one-test-type threshold that is very much based on public safety and public protection. That is absolutely right. If that is used appropriately, it will likely open up fewer people being funnelled into a custody system that, once they are in it, has a significant detrimental impact not only on them but on their family and a wider impact in terms of negative reoffending.

Jamie Greene: Thank you very much. That really helps. It clarifies your position.

I will ask the other two panel members a question. The other side of that has been mentioned. I realise that it is difficult to conjecture on this, but maybe there is concern that decisions are made because there is a lack of confidence in alternatives. That is an easy thing to say, but it is quite difficult to prove that because, surely, we would think that sheriffs and judges make decisions that are the right ones based on the information—or lack of information—that is available to them at the time. However, it would be a problem if they are making decisions to remand people in custody because they have little faith or confidence that the alternatives are there or will be delivered appropriately, safely and confidently. Is that a problem? Is it a fact that there are no proper alternatives for many people? There should be, and that would give another, better option.

That question is for Charlie Martin and Tracey McFall.

Charlie Martin: I believe that there is a lack of shrieval confidence in the alternatives. We know

that the provision of supervised bail is not consistent nationally. Part of the problem for people on remand is that they are, in effect, in the no-man's-land of the criminal justice system. It seems that the bill could present an opportunity to tackle that by providing a service that is similar to the throughcare that is provided for convicted prisoners. However, consistency of delivery is needed, and we need to obviate any postcode lotteries or barriers to people accessing that. Equity is required.

The same question was asked at a conference that I was at in April this year, which Lady Dorrian chaired. She indicated that there was a problem with shrieval confidence in alternatives that were available in any particular area. That becomes an even more difficult problem for travelling sheriffs.

Jamie Greene: That is very helpful. I would be fascinated to hear more about what Lady Dorrian had to say on that matter.

I will move on to Tracey McFall, and I will load the question with a secondary one. As part of discovering what rightful alternatives might look like, how can we ensure that there is fairness in the system and that victims of crime—specifically those who feel that they may be harmed mentally or physically, such as those who have suffered domestic abuse or other violence of that type—are protected? I guess that there may be concern that more people who would have been remanded under the current system may be released because the new rules permit them to be released. How can we ensure that there is balance there?

09:45

Tracey McFall: The key question for the criminal justice voluntary sector forum is: will the bill make the lives of individuals, families and communities better and improve outcomes? You asked why sheriffs are making the decision to remand. As Charlie Martin said, the approach is inconsistent across the piece. Not all courts have criminal justice-based court social workers. That in itself creates an inequality because, if the sheriff does not have the information that he needs in order to make the decision on a community disposal, he may have no option but to remand in order to get a report done. There is an issue relating to structural processes and information sharing and some of the things that Charlie Martin said that the bill could offer.

Another key point is that sheriffs need information at court. If court social workers are not there, is there a role for other partners, including the third sector and lawyers, to feed into the process? Currently, that is not the case, but the bill may provide that opportunity.

There are also resource implications. Let us face it: given the bill and the number of assessments that might have to be done, there will be a resource implication for that work across criminal justice social work teams. That is huge. It is an elephant in the room, and it has to be looked at. That has implications for the third sector, as well.

The clarity of roles, and who is in the system to make sure that if sheriffs need information someone will provide it, are issues, and there is an issue relating to the lack of consistency. As Charlie Martin said, some alternatives to custody are not available across the country. That creates inequality. Criminal justice social workers are not based in every court in the country, and that creates inequality. When we piece all that together, we start to understand why sheriffs struggle to make those decisions. Sometimes they do not have the information at hand.

Finally, on your question about decision making, the bill will create an opportunity for that, because, if we really understand the decisions around bail, we can start to understand why they were made and to build an evidence base. That is critical, not just for people who are going through the system but for victims, as Jamie Greene said. Victims need to understand the decisions that are made in bail processes.

There is a lot in that, and the picture is very complex. However, I hope that that gives some context.

Jamie Greene: That is really helpful.

I will let other members come in, because I am sure that there is a lot of interest in the bill. However, I would like to come back to funding and resource later in the session, if that is okay, convener.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning. From your submissions, you seem to be broadly supportive of the bill, although you highlight resources as an issue.

I want to ask a wee bit more about the suggestion that third sector organisations, when working with individuals in a case, should be able to provide input to help to inform decisions. How would that work in practice? Are there concerns in general about how that might delay the process? What are the timings likely to be in the whole court system, if several organisations are inputting and may be working to different timescales? Has the system suffered because of a lack of information from third sector organisations until now? I think that you believe that the bill should provide the opportunity for third sector organisations to do that, so I ask you to talk a wee bit about that.

I will go to Charlie Martin first.

Charlie Martin: It is an interesting question. As my colleagues have explained, the lack of social workers in some courts is a problem, and the lack of information for sheriffs is a problem. Let us be honest: people offend, reoffend and reoffend, so there is a high likelihood that many people who come to the attention of the police or are taken into police custody already have third sector support in the background. I suggest that at the point of arrest or charge, the person should be asked, "Do you have any support workers? Do you have any support from a third sector organisation or from criminal justice social work or whoever?" That could be identified at a very early stage and those individuals could be contacted and advised that their client, customer or service user is in police custody and that they should therefore make the effort to be at the custody court on the Monday, or whenever it might be.

That would give the background of the journey travelled, if you like. The person who is in front of the sheriff is not necessarily the person that they were when they were arrested, because they could be making progress in their journey. It is often frustrating in the extreme when someone has been making progress, but they then make a mistake and are rearrested. It is almost like snakes and ladders, in that you get to number 99 but then go back down to number 1. People are best supported in the community. That is one way to make sure that we can do this, as it allows the third sector to inform a sheriff when bail applications are made.

Rona Mackay: Just to clarify, are you suggesting that the first step in the application would be to contact a third sector organisation that has been working with the person?

Charlie Martin: Yes—if someone is in place. That person does the co-ordination. They have the phone numbers and the contacts. They know who to talk to in social work to ask whether they have any involvement. That approach would smooth out the system a little more.

Rona Mackay: Tracey, may I have your views?

Tracey McFall: As Charlie said, there are a couple of things. There is an individual in the middle of this who will potentially not have contact with criminal justice social work or any statutory services, but there is a higher chance—it is more than likely—that they will have access to or have been engaging with the third sector, whether that be housing, mental health, drugs and alcohol services or something else within the gamut of services that are out there. As soon as possible when people come into the system—for example, into police custody—we need to ask them, "Who is supporting you? Who is around you? Is there someone you can tell that you will be going to court?" As Charlie said, that at least gives us an in, and we can make sure that the person's third sector worker will be in court the next day to start to go through that process.

When someone is in custody, it is really important to try to get the whole picture. Even if they are involved in the criminal justice system, sometimes that is not the whole picture. It could be that they have lost their tenancy or have problems with drugs and alcohol. If they are a woman, there could be domestic violence issues. It is really important that the sheriff tries to get the whole picture.

I will mention this, although I do not want to go down a black hole. In Scotland, there are challenges around data and data systems. We work with organisations such as the police and criminal justice social work, and there are a number of systems that do not chart the person's journey. I know that that has been raised in the committee a number of times, but that situation adds another layer of complexity. There is no one place where a sheriff can get the information. A starter in dealing with that would be to ask the question as soon as someone is arrested. We actually have navigators in police custody. There are already structures and mechanisms in place that could help us start to unpick the issues and start to do that. That would be a starter for 10, just to bolster what Charlie said. We need to ask people who they are connected with—that makes sense.

Rona Mackay: Is there a risk that some people might fall through the net if they are not connected to a third sector organisation and are not getting support?

Tracey McFall: The fail-safe is still that they are coming to court. The difficulty is that, if there is no criminal justice social worker at that court, they may go through custody without engaging with anyone and without anybody asking those questions. There is another complexity around how criminal justice social workers make those links in virtual courts. There is potential for people to fall through the net. A fail-safe would be criminal justice social work, but that is variable across Scotland, so we do not have it across the piece.

Rona Mackay: That is really helpful. Lynne, would you like to provide some input?

Lynne Thornhill: Again, I agree with what my colleagues have said. Fundamentally, the best outcome for the individual and for the system as a whole is for the system to have as much information as possible about the individual at hand in making decisions. As Tracey McFall said, there are services in our police stations. Sacro operates a number of arrest referral-type services. There is possibly an issue with the spread of that. A better spread of support available at earlier

stages—at the point of arrest or in police custody—would support the information flow from the third sector to the statutory services.

Often, the engagement with the third sector, compared with that with the statutory services, is extremely valuable. It is a different relational piece that happens in that conversation. The quality of information and, sometimes, the relationship can be quite different. It is about really understanding what is going on for the person and, therefore, what the best course of action is for them, society and overall safer community protection.

Rona Mackay: If multiple agencies were inputting information, would there be implications for how long it would take to get a decision made?

Lynne Thornhill: The co-ordination is critical. The outcome from having that information warrants the information being available. There are such good working relationships between the third sector and statutory services in any event, so it is about building on that piece and making sure that there are no obstacles to that information flowing through. It is absolutely right to have that information in order to make fully informed decisions because, ultimately, people's lives are affected by whether they go to a custodial establishment.

Pauline McNeill (Glasgow) (Lab): Good morning. I will start by asking Lynne Thornhill about the threshold. I am still trying to get my head round the test, so bear with me; I am not certain that I have understood it correctly. As other members have said, the committee has previously questioned the high levels of remand. The Cabinet Secretary for Justice and Veterans said that one thing that the Government would do is introduce the Bail and Release from Custody (Scotland) Bill to change the test and give sheriffs more scope to make decisions that do not involve remanding people in custody. We have received submissions, including from the Crown and the judiciary, who had serious concerns about the initial provisions. The Government therefore adjusted that threshold test. My understanding is that the concern that sheriffs and judges have is that the test has been changed from a public interest test to a public safety test, and the problem is about who defines "public safety". That is the context for my questions.

I am having difficulty understanding the evidence that I have just heard, because it does not really fit with what I am trying to get my head round. For example, in answer to Jamie Greene, Lynne Thornhill said that there was one piece that is likely to open up, and I did not fully understand that. The provision is designed to give sheriffs some discretion, but their concern is about how they can use that discretion if they do not have a framework for making the decision about what public safety is. Is criminal justice social work's information, which we have been talking about, integral to a sheriff using that threshold when they are making a judgment about what "public safety" means, as someone has suggested? However, if someone does not have a criminal record in the first place, how can that public safety test be used?

Lynne Thornhill: There are a lot of pieces to that. On the point about the definition of "public safety", what we mean by the term is obviously critical. My understanding of the bill's intention is that it is to remove things such as exempted offences, which automatically preclude someone from getting bail now, which may not be necessary for public protection. There needs to be some exploration of what the test is currently and how we reach a point where public safety, public protection and risk are absolutely paramount in decision making. Currently, people are being remanded rather than getting bail for repeat offending behaviours that do not present a risk to the public or victims or do not involve repeat victimisation. That is often more about their compliance or the likelihood that they will comply. There are a number of factors to take into account.

10:00

My understanding is that the bill is trying to simplify that test. I absolutely accept that there has to be judicial discretion with regard to that decision making. The decision making absolutely needs to be supported by an information base, of which criminal justice social work is part—we have mentioned the resource implications of that. Currently, a number of factors will determine whether someone is remanded. That is based not just on the risk but sometimes on other behaviours that do not necessarily mean that someone needs to be in a closed setting. It is about trying to simplify the process and making it more around the risk and the public safety. However, your point about what we mean by "public safety" is critical. Across different justice sectors and organisations currently, the test can look a little bit different. The critical bit is about getting agreement on what the test looks like.

Pauline McNeill: I will ask the others to answer that question in a moment. You have given the example of a repeat offender. Using the public safety test, how will third sector organisations or criminal justice social work help a sheriff or judge to make a better decision on someone? How will that work? What information would you provide for a judge?

Lynne Thornhill: The information that would inform that decision would be around any risk-based stuff. I guess that the value that the third sector can provide with regards to bail is the

wraparound support. For example, where someone could potentially be remanded because of repeat non-compliance, there is something to be considered around the level of support that is needed for the person in the community so that they can remain there on bail with supported provision. There are also alternatives with regard to electronic monitoring and so on that add to the level of support in the community, as well as supported bail and supported provision. That is where the third sector and other partners can add value—it is with regard to the wraparound support to enable an individual to remain in the community.

Pauline McNeill: I want to come back in on that to try to understand it. In a public safety test, where the question is whether someone poses a risk, are you suggesting that we need to add something into the bill about considering what risk the person poses to the community if they have a level of support? Those are two entirely different questions. That is not what is in the bill currently, although what you are saying makes sense. Of course, that is for repeat offenders, but the same test would apply for a first-time offender, would it not?

Lynne Thornhill: Yes, the public safety and risk piece would be the overriding factor. I am saying that there are situations currently where people do not present a risk to public safety but are remanded. In those circumstances, provisions are now available whereby additional wraparound support can be put around an individual so that they can remain in the community. Fundamentally, I agree that the risk piece has to be first and foremost, and I believe that that is what the bill proposes. The question is how we determine the definition of risk and public safety.

Pauline McNeill: Do Tracey McFall and Charlie Martin want to come in on that?

Charlie Martin: I will come in quickly. The crux of the issue is the question of repeat offenders versus first offenders. Clearly, with repeat offences, criminal justice social work will have an input. Those people will have LS/CMI—level of service/case management inventory—which gives the indicator from criminal justice social work to inform the sheriff. The real crux of the issue is those on whom we do not have any intelligence and about whom we have no previous knowledge, particularly from the LS/CMI. However, as Tracey McFall pointed out, there is a high probability that those individuals will have connections with third sector organisations, whether that be through drug, alcohol, homelessness or employability services. It is about gathering what we have to try to help the sheriff to make a properly informed decision.

An interesting point that came from the consultation that we did with 94 customers was that, almost to a man, they said that, if it is a summary case, bail should be a default position, unless there is something in the person's history that indicates a problem. Strangely enough, people who have been in prison many times said that solemn cases should be decided on a case-by-case basis, with the right input from criminal justice social work and other intelligence that is available. That would be looking at it in a simplified manner.

Pauline McNeill: Tracey, would you like to add anything?

Tracey McFall: There needs to be a discussion on the definition, as my colleague Lynne Thornhill said. There is a question for the courts about the nature and seriousness of the alleged offence. As Charlie Martin said, we are talking about repeat offenders who potentially are in the system because of a range of complexities around adverse childhood experiences or trauma; we are not talking about people at the higher end of the serious offence scale with regard to public safety. I just wanted to add that.

There is a discussion to be had on the grounds for refusing bail. This has not been mentioned yet, but we have to think about human rights. A wave of human rights legislation will be coming over the horizon around the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities, and we need to be cognisant of those. If we are putting people in remand, we need to be really clear about why that is the case and whether there is a potential human rights element around UNCRC, the right to a family and the right to access for adults. All of this needs to sit within the context of a human rights framework.

Collette Stevenson (East Kilbride) (SNP): Good morning. We have spoken about community disposals and touched on the lack of consistency across Scotland around what sheriffs and judges use in that regard. I want to focus on that because I have witnessed a sheriff in a court mete out a structured deferred sentence. It is similar to what we are talking about in that it has wraparound support, albeit that it focuses on younger offenders—16 to 21-year-olds. What is the witnesses' understanding of that? How does it work and how effective is it? Could we broaden out its use through the bill?

One of the things that stands out for me is that, for such a sentence to be given, a person must have a home address. However, homelessness is one of the big issues, combined with addiction and mental health problems. At the heart of it, criminal justice social work is heavily involved in putting forward that option as part of the court case.

I will ask Tracey McFall about that first of all.

Tracey McFall: There is a range of options. Take the work that was done around drug courts. If an individual offends due to their problematic substance misuse, we have a range of elements and innovations in Scotland around drug courts. Having worked in the justice system for a long time, I know that wraparound support is critical to structured deferred sentences, but what is really important is the relationship that an individual has with the sheriff. That takes us back to that relational evidence-based approach and what works. That is about treating the individual as a person within the system, rather than as a person who is going through the system.

We have done a number of things around that in Scotland, and there are a number of studies on its effectiveness and efficacy. There is some learning to be had around structured deferred sentences and drug courts. Of course, we now have alcohol courts and domestic violence courts. Therefore, a range of different programmes are available.

I would add an element of caution to all that. We must not up-tariff a person to get them a structured deferred sentence in order to get them through a drug court. However, we could learn from a range of disposals that are available and from innovations that are happening across Scotland. That would mean wraparound support, with individuals going through the court understanding the process and ensuring that that support is put in place.

In the drug court, the sheriff can see a person once a month. They come in front of the sheriff, who explains what the process is and so on. We could learn from a number of options across Scotland.

Collette Stevenson: Thanks very much. I pose the same question to Lynne Thornhill.

Lynne Thornhill: In our view, there is the opportunity for greater use of structured deferred sentences, which, as I understand it, are not used massively across Scotland. Understanding the reasons for that is fundamental.

From my perspective, structured deferred sentences provide an opportunity to keep someone from going further and further into the justice system. The outcome of a successful structured deferred sentence is that someone does not go further into the justice system: they have undertaken what is required and the matter is spent. That can only be a good thing.

However, that is a post-sentence disposal, so it is slightly different from the bail and remand question that we were talking about. Fundamentally, we need to understand why there is not more significant use of it across Scotland and understand the outcomes from it.

Collette Stevenson: Why is that not being used in each of the sheriffdoms in Scotland? You touched on that earlier.

Lynne Thornhill: Unfortunately, I do not have the answer to that. I am not close enough to the issue to understand the reasons for that. I can look into that and bring it back to the committee via Scottish Government colleagues, if that would be helpful.

Collette Stevenson: Do not worry about it.

I put my original question to Charlie Martin.

Charlie Martin: A fantastic pilot on structured deferred sentences has been done in South Lanarkshire; I am sure that you will hear more about that later. Such sentences work particularly well for young people.

My next point is in relation to conviction. Let us look again at the question of bail. Earlier, we spoke about the opportunity to introduce support to people on bail. We know that relational mentoring is one of the best things that you can do for people. If we were to put that in place, there would be every opportunity for someone to progress. When things eventually get to trial and the final conviction, that would give a sheriff the opportunity to say, “Do you know what? You did really well with that element of support. Perhaps, the best solution here is to give you a structured deferred sentence that keeps you in the community with that wraparound holistic support and keeps you out of prison”.

You score twice there because, if you do not put them on remand but give them support and they are successful, they will not get a custodial sentence when they are convicted. That all contributes to reducing the remand population and the convicted population, which is what we all want to see.

When we talk about mentoring, I am reminded of an article, which came out just last week, by Lord John Bird, who is popularly known as the people’s peer. He had been looking at relational mentoring in the justice system. The headline was:

> “Scotland has the perfect antidote to ex-prisoners’ reoffending rates”.

In the article, he said:

> “That support to helping someone out of prison and making a break with their past is the greatest of public savings imaginable, yet often sorely missing.”

That element of support is crucial in all the questions today and all the way through the bill. If we give people support, we can help them to change. Within all that, we must understand that relapse is an integral part of recovery. As we get

people further down the line, they get stage fright and relapse a bit. Rather than just say, “Okay, you’ve let us down. You’re going back into prison”, let us look at them and deal with them as a person. Let us have humanity and kindness in our system.

Collette Stevenson: Thanks very much, Charlie. That is really interesting.

I have no further questions, convener.

The Convener: I will come in with a couple of questions. I am looking at the submission from the Wise Group, so I will come to Charlie Martin initially. I found your submission comprehensive, with a lot of good points teased out in it. I will ask a couple of questions about the release of long-term prisoners and the use of a reintegration licence.

10:15

You mention the benefit of all categories of prisoners being made eligible for early release, whether under a reintegration licence or a home detention curfew. The eligibility assessment process would involve each case being decided on its merits, and, where release is refused, the reasons for that would be communicated clearly and a plan to address that would be put in place.

You comment on the underutilisation of processes of that type, such as a home detention curfew. Do you have any further comments on where—and why you feel that—there would be benefit in that type of early release option being better used?

Charlie Martin: Clearly, we understand that time spent in custody is disruptive to everyone’s life—it is disruptive to the person in custody and to their family, loved ones and children, and it is disruptive to communities and employers. We know that the longer that someone remains in custody, the harder it is for them to reintegrate. Take a person who has been off the streets for some time who is suddenly released, whether for a week’s home leave from the open estate or for some other reason. Those people see big signs on walls that say, “Free cash”. They do not understand the bit at the bottom that says, “You can make withdrawals here”. They also see people in supermarkets scanning their own items. Reintegration is so difficult for people. We believe that many people try to self-regulate but, because they cannot handle the reintegration, they reoffend.

We need to give people the right element of support to integrate. I will always go back to mentoring, and I will champion it until the day that I die. If we can use mentors to help people to reintegrate, their reintegration is likely to be more successful. We do not want to set people up to fail; we want them to be successful.

Correct me if I am wrong, but my understanding of the proposed reintegration licence process in the bill is that, in all likelihood, that will be at the behest of the Parole Board for Scotland. The board is already under pressure in terms of manpower, case loads and so on. It always comes back to the question of resource. That means not only resource to provide support for people leaving prison but resource to handle the cases. We should look at changing the language around resource. Let us talk about it as a preventative investment that will save money down the line.

The Convener: Thank you, Charlie. I will bring in Lynne Thornhill on that issue.

Lynne Thornhill: For me, there are a couple of key considerations with the reintegration licence. In principle, I am very supportive of it. First and foremost, the fact that it moves the process from one of application to automatic consideration can only be a good thing in the sense that everyone will have the opportunity of access to an assessment of their suitability for it.

The reintegration piece allows a couple of things. As well as reintegration of the individual into society, with family and the relational pieces—all the points that Charlie Martin has eloquently made—there is another real benefit: the testing of individuals in the community environment, which will ultimately support release decisions.

If we look at some of the current challenges to people’s ability to make progress through the custodial estate in Scotland, we see that any other opportunity to reintegrate and to be tested in order to support fundamental decision making and the higher likelihood of individuals remaining in the community once they are released can only be a good thing.

The Convener: Thanks, Lynne. Would Tracey McFall like to comment?

Tracey McFall: I have just a couple of things to add. We have the community custodial units in Glasgow and Dundee, so there is learning in relation to that integration piece. There is something that we could learn across Scotland about how we do things differently with women on licensing, integration and getting access, as Lynne Thornhill said, to the community while still in custody to increase the chances of integration.

I go back to the bill. Proposed new section 34A is on the duty to engage in release planning, and everybody has talked about how critical the third sector is in that process. The third sector is not named in that section. I have some specific asks and key questions on accountability for the implementation of pre-planning. Who is involved in

that? Currently, the third sector is not named in the bill. That issue must be explored, and the role of the third sector is potentially critical.

We cannot do this on our own. There is an opportunity to take a broad interagency, intersectoral approach. There are loads of opportunities with the bill, but the third sector needs to be an equal partner. Currently, an explicit definition of the role of the third sector in release planning, whether that be on licence or a home detention curfew, is not in the bill. The third sector needs to be part of that process.

The Convener: My follow-on question was going to be on who should inform the process. From what you and other witnesses have said, the third sector is clearly integral to the process. At what point on the timeline should that process start and sectors such as the third sector become involved? I will go back to you, Tracey, and then Charlie and Lynne can pick up on anything else.

Tracey McFall: We have a few questions about the bill. We assume that it is looking at voluntary throughcare and statutory throughcare. If you think about the churn in the remand population, you see that, right now, there is a massive opportunity for people to get that support from the third sector as soon as they hit remand. As Charlie and Lynne have said—we have all laboured the point—a number of people in custody will have access to third sector organisations. We need the third sector to be around that table at the earliest opportunity, whether at the remand stage or when someone has been given a nine-month sentence. We need to ask the person in custody, "What is your plan? Who do you need to engage with?"

The pre-planning stage is critical. There needs to be a process at the six-month point and the three-month point that puts the individual at the centre so that we are not talking to people about their plan a couple of weeks before their release.

There is a massive issue around housing and people coming out to homeless accommodation. The third sector needs to be involved as early in the process as possible. Remand is a critical point, because we have found that some people can be remanded for months and are then released when they get to court. There is no support for them when they are released from court.

The remand piece is really important for the third sector, and, as I said, we need to be around the table as soon as possible.

The bill states that ministers are responsible. We assume that that means the Scottish Prison Service. A key question is whether the SPS is responsible for the co-ordination, planning and development and bringing everyone around the table.

Charlie Martin: We believe that the right thing to do is to take the earliest possible opportunity to start people thinking about how they plan their way through their prison sentence and come out the other side.

Involving the third sector and mentors is crucial to that process, because there is the question of the power balance. Relational mentoring builds a relationship around trust and respect. A recent report by the Fraser of Allander Institute indicated that, in throughcare in Scotland, 92 per cent of eligible prisoners voluntarily engaged with mentoring services. Mentoring clearly works, and it is attractive to people in prison. Much of that is down to the power balance.

That process must be started as early as possible.

The Convener: Thank you. That is a really interesting point.

Lynne Thornhill: When someone goes into prison, they do not stop being a member of the community where they used to live and will go back to. There is something around how we maintain hope and belonging for individuals. Therefore, from the earliest point, maintaining the contact when they go in is critical, particularly on things like housing. For example, if we can be proactive and help someone to maintain their housing, they will not be in need of housing provision at the point of their release. The support needs to be end to end.

Everyone has a part to play, and we have already had some conversations today on accountability and where overall responsibility sits. The SPS clearly has a role to play with regard to the reintegration point when people are in a custodial environment. As Charlie Martin said, there are mentoring-type provisions such as Shine and the new routes provision, of which Sacro is a part, that support individuals to come back into communities.

We also need to focus on the link between the planning that goes on within custody, how our community provision links into that and how the custody provision links out of it so that everything is streamlined.

We know that, in areas and establishments where there are short-term planning custody arrangements—those are similar to integrated case management processes—our external mentors are able to link much more effectively with custody and with the people they will be supporting to bring back to their communities than they are where the planning is not as robust in the custodial establishment.

There are many challenges for the SPS in doing that because of the populations across the estate.

That is not a criticism of the SPS. This is about having a whole-system and whole-person piece that starts from when someone goes into custody until they come back out into the communities. That is the best possible approach for the individual but also for communities and potential victims.

The Convener: That is helpful. I will bring in Jamie Greene again to bring the session to a close. We are just about out of time.

Jamie Greene: I will try to keep this quick, then. I thank the witnesses for the session that we have had.

My first question follows on from the previous conversation. It is clear that a cohort of people are released from custody with no conviction after being on remand, that there are those who have been given a sentence but have been on remand for the duration of that sentence, and that there are those who are coming to the end of their sentence. Different cohorts of people are released.

It has become clear that there is a lack of joined-up co-ordination when many of those people are released. Lots of good work is happening; we have seen that at first hand and spoken to some of the protagonists. However, for a lot of people, the prison door is simply opened and that is it: they are homeless and have no access to funds, food, medication, mental health or addiction support, skills training or employment. Other than putting words on paper, I cannot see what will change as a result of the bill, because it is still unclear to me who owns the problem when a person is released. What are your thoughts on that?

Lynne Thornhill: On the joined-up co-ordination point, there are, as Charlie Martin said, mentoring services that support co-ordination and link with statutory services. There is a separate, wider point on the availability of service provision. Mentors can work with individuals, support them and bring them to statutory services that provide, for example, housing or mental health support, but if the housing stock is not there or the waiting lists for mental health provision are too long, no amount of relational or mentoring support can plug that gap.

Again, it comes back to the need for a whole-system approach. The mechanisms for co-ordination are there, but things need to be joined up better, which involves wider information sharing. Fundamentally, there is an implementation gap when it comes to what is available for people to access outwith that co-ordination. There can be co-ordinating services, but the outcome from contact with those services has to be positive.

Jamie Greene: Thank you. I am just waiting for the screen to change. It is hard to see who is waving at me to come in.

10:30

Charlie Martin: I will come in very briefly. I referred in my submission to a

"One man, one plan, one consistent … service".

In this day and age, that is not impossible. Given what we as a nation achieved collectively throughout Covid—how we reacted, used technology, put aside our differences and made things happen for the better—there is nothing to stop us doing that now in this instance. However, it comes down to one person being the co-ordinator—preferably a person with whom the prisoner has built a relationship—and taking it from there.

Jamie Greene: The problem is that that could be anyone. Is that your point?

Charlie Martin: It is horses for courses.

Jamie Greene: The money has to follow. I presume that what happens will have to be backed up by funding.

Charlie Martin: Yes.

Jamie Greene: You do not want to put a label on it, but is it the responsibility of a local authority, the SPS, a Government agency, social work or some other body? Somebody needs to take ownership; we cannot just leave it open to whomever the individual has a relationship with when they are in custody.

Charlie Martin: The responsibility to make it happen effectively and to direct it sits with the Scottish ministers, because they will have to find the funding. I go back to my previous comment: let us look at it not as spending but as preventative investment.

Jamie Greene: I do not disagree with that. The reality, though, is that, as we heard in the first answer, it is all very well saying that someone has a designated mentor, but if that is not backed up by core services—if there are no houses, no skills and training provision and no mental health services—the relationship is helpful, but it is not enough in itself.

Charlie Martin: We have two national mentoring services. As Lynne Thornhill mentioned, we have Shine for females and new routes for males. They operate across the 32 local authorities and in every prison in Scotland that has a short-term population. In the past 10 years, the new routes service has provided co-ordination by working alongside and collaborating with more than 9,000 local services and organisations. There

is a structure in place, and it can work, but—this goes back to the previous question—we have to act at the earliest point in order to co-ordinate that change.

Jamie Greene: I should declare an interest as I met the Shine group last Friday. I am really impressed by the great work that it is doing. That is an excellent plug.

Tracey McFall, do you have anything to add?

Tracey McFall: Yes. There is a bigger, broader question around all of this. Some of it is about resources, but there is also a massive opportunity. We have the justice strategy, the community justice strategy, medication-assisted treatment standards, the whole-family approach, the mental health strategy and the national action plan for ending homelessness, and a part of all of those policies relates to the justice space.

One of the difficulties that our members face relates to the local implementation structures, whether those be alcohol and drug partnerships, community justice partnerships, integration joint boards or community planning. Loads of money is going into the system, but are we using every penny of the pound as effectively as we can? We are currently funding in silos; that is what I am trying to say. Underpinning all of this is the fact that it is about families, individuals and communities. There is a bigger question around whether we should use the funding differently. Let us face it: there is no big magic money tree out there. However, could we do things differently in how money is funnelled, structured and used locally?

Jamie Greene: That is probably a question rather than an answer. It is a much wider point, and I hope that you will all be able to input into the solution. I really appreciate those responses.

The Convener: That brings us to the end of our first panel. I thank the witnesses very much indeed for their attendance. It has been a really informative session for members.

10:34

Meeting suspended.

10:38

On resuming—

The Convener: I welcome our second panel of witnesses: Rhoda MacLeod, head of adult services for sexual health, police custody and prison healthcare at Glasgow City Health and Social Care Partnership; Sandra Cheyne, national career information, advice and guidance policy and professional practice lead at Skills Development Scotland; and Gillian Booth, justice service manager at South Lanarkshire Council. A very warm welcome to you all. We appreciate the time that you have taken to join us this morning.

I intend to allow about one hour for questions and answers. As before, it would be helpful if members indicated whom their questions are for and if the witnesses indicated, in the online chat function, whether they would like to respond to a specific question.

I will open with a very general question for Gillian. We are looking at the bail provisions in the bill. As you know, the bill will require a court to allow justice social work the opportunity to provide information that is relevant to bail decision making. In broad terms, do you support having that requirement in the bill? If so, why?

Gillian Booth (South Lanarkshire Council): Thank you very much, convener, and thank you for this opportunity.

South Lanarkshire Council very much welcomes the opportunity to provide bail supervision assessments and electronic monitoring assessments to sheriffs—that is without question. We have been providing bail supervision assessments for a number of years, as have many other local authorities. However, there are challenges with that, particularly in resourcing. As other witnesses indicated earlier this morning, there is a requirement to undertake assessments, but those take a significant amount of time. Consider how many people go to court and, perhaps, have bail opposed. On any day in Hamilton sheriff court, for example, 20 to 25 people could have bail opposed. Consider the time that it takes to do the assessments—it can be over two hours per assessment. That has a considerable staffing requirement. It is not only qualified social workers who provide that service; more often than not, it is our paraprofessional staff group. They are qualified to a social care qualification level, but they are not qualified to undertake risk assessments.

Although I appreciate that there is an indication in the financial memorandum of how funding would be directed towards social work resources to undertake bail assessments, the difficulty that we have is that we do not know how many bail supervision assessments and electronic monitoring assessments would be required. There is a concern within social work nationally about how it will be able to resource that service.

We also face challenges in recruiting and retaining staff, as do many parts of social work. We know from the recent work that was done in the “Setting the Bar” survey that one in four social workers leaves within six years of entering the profession. We are therefore conscious of the question of how we will be able to provide a

continuous and effective bail supervision service going forward as some of those challenges continue.

The Convener: Thanks very much, Gillian. I do not know whether either of our other two witnesses would like to come in. I will go to Sandra first and then Rhoda.

Sandra Cheyne (Skills Development Scotland): We work closely with social workers—[*Inaudible*.] If we are working with anyone who is within the criminal justice system or on bail conditions, we work closely with a social worker. However, it is not an area where we are particularly focused in—[*Inaudible*.]

The Convener: Thanks, Sandra. Rhoda, would you like to comment on that?

Rhoda MacLeod (Glasgow City Health and Social Care Partnership): Good morning, convener and committee. There needs to be better connectivity between police custody and social work in advance of somebody appearing at court. That would support what is proposed. Also, not all our police custody health services are managed or led by nursing; there is variation across Scotland in how police custody health is delivered. Ideally, it would improve matters and support the resource challenge if, in advance of somebody being held in custody, there was better connectivity between the services.

The Convener: Thanks very much. I want to ask Gillian a follow-up question. It relates to the comments in the submission from South Lanarkshire Council on the removal of bail restrictions. Your submission suggests that you feel that that would be

"a positive addition as there are people being remanded that potentially could be safely and appropriately managed within the community".

We are at a very early stage in our evidence gathering, but there is perhaps some confusion or difficulty in understanding how this would work in practice. I am interested in any comments that you have on that proposal and how you see an alternative working.

10:45

Gillian Booth: We know that electronic monitoring works best when we have bail supervision in place to support somebody in the community. In South Lanarkshire, in recent years, we have seen that bringing in the third sector to support bail supervision leads to better outcomes for our service users. When I say bail supervision support, I mean helping to connect vulnerable people—particularly those with substance use issues—to the community.

The work that Sacro, for instance, does, as well as our recovery, communities and peer mentor services, is particularly effective and supportive of people. That is the key. We know that there are many people on remand whose offending is directly linked to their substance use, and custody is not particularly the place that will address those issues in the longer term.

Bringing people into the community, providing stable and supportive accommodation and linking in when somebody is ready to consider education and employability are all key measures that sustain somebody within their home and community. That is where I see bail supervision working best.

We know, from the recent statistics on the remand population that the Scottish Government produced in November, that remand for sexual crimes is up by 22 per cent and remand for violence is up by 9 per cent. However, remand for other crimes against society shows the highest increase—34 per cent—and the individuals within that cohort of offending are the ones who can be supported in the community more successfully.

For me, how we try to make sure that people manage with things such as curfews poses the greatest challenge. We know from the courts that there are continual breaches of curfews, which, in itself, generates more work for the police, more work for court services and further appearances for the individuals. That is where electronic monitoring perhaps provides the opportunity for somebody to be managed within the community. With the support of bail supervision, they are more likely to manage their electronic monitoring tag and less likely to come back to court because of breaching their curfew.

The Convener: Thanks very much, Gillian. Rhoda or Sandra, would you like to come in on that? I appreciate that this is focusing on bail and that your contribution perhaps relates more to release from custody, but you are very welcome to add anything.

Rhoda MacLeod: No, I have nothing further to add, thanks, convener.

Sandra Cheyne: Just to say—[*Inaudible*.]—in the community—[*Inaudible*.]—for someone rather than being paused or stalled. I also feel that community partnerships would be able to play their role more significantly in that situation if bail was more on offer as an option than custodial sentences. I agree with a lot of what Gillian says.

The Convener: Thanks very much, Sandra. Your sound is a wee bit difficult to hear, but I think that we got the gist of that.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning to committee

colleagues and the panel. I have a question on the back of the convener's question and Gillian Booth's answer. It is about the bill's potential impact on social workers and their teams. Has Gillian or any other panel member thought about what that impact might be? Criminal justice social work teams tend to be relatively small. Would it take an increase in numbers to fulfil the principles of the bill? Do you think that the functions would be carried out by typical criminal justice social work teams, or do you see them being done more—as you mentioned—by specific bail supervision teams? Gillian, you may be able to answer only for South Lanarkshire Council, but you may have thoughts on how local authorities across the country might set up.

Convener, I should probably refer members to my entry in the register of members' interests. I was previously a registered social worker with the Scottish Social Services Council. Given that Gillian is the manager of the local authority that I previously worked for, although it was before Gillian's time, that is more relevant today.

Gillian Booth: Yes, I can speak for South Lanarkshire Council, but I also know that the landscape of justice social work is different across Scotland and that not every area has a court in it. In South Lanarkshire Council, we manage North and South Lanarkshire core services, which takes into account Hamilton, Airdrie and Lanark. There are different arrangements, and part of the problem is accommodation for staff in courts. Some courts have good accommodation that social work can be based in, but, in other areas, that has to be facilitated in the local offices. There is no doubt that there will be a requirement to recruit additional staff if the roll-out of numbers is as we expect, and we want to encourage that. It is therefore in our interest to promote bail supervision through electronic monitoring where we can. It is about how areas decide to do that and how they decide to use their resource.

I mentioned paraprofessionals and social work assistants. Across Scotland, that tends to be the level and grade of staff who do bail supervision assessments. Those staff are not qualified in risk assessments, and you could argue that one of the limitations of the bail supervision assessment is that it very much focuses on identified needs for an individual rather than on identifying the true risk that that person may pose. Staff are able to comment on public protection issues, but only when we have sufficient information from our social work systems. You may be aware that we get information only about what the charge is against a person, which may lead to bail being opposed, from the Procurator Fiscal Service. No other additional information will be provided. It may be relevant to add that.

Part of what we have done in South Lanarkshire—some other local authorities have done this, too—is use our money to recruit from the third sector to provide bail supervision support, and that typically looks at the care mentoring that I spoke about earlier. It therefore very much depends on what funding is available, from where resource is able to be pulled in the existing section 27 budget and what capacity there is across localities and specialist services. The difficulty that the justice social work service in Scotland faces is in trying to anticipate the volume. We are able to test that. For example, we are actively promoting the use of bail supervision electronic monitoring for all bail-opposed people in South and North Lanarkshire. If that translates into the true number of 20 to 25 people per day, there is no way, with the best will in the world, that we will have the resource and staffing to undertake all those assessments in one day. Ultimately, that will mean that people may be remanded to allow those assessments to be concluded. The timescale in the financial memorandum for how long it will take to do a bail supervision assessment—one and a half hours—is perhaps hopeful. It is more likely to take over two hours per assessment. It may be helpful to add that, too.

Fulton MacGregor: Convener, is it okay if I ask a supplementary question?

The Convener: Very quickly. Then I will bring in Pauline McNeill, who also has a supplementary question.

Fulton MacGregor: My supplementary question is in the same area. Gillian, you are right to say that, if the bill is passed, the assessments will be a hugely time-consuming and important task. Are there discussions at an advanced stage on how many more workers will be required, whether they will be required in specific teams and where those resources might be pulled from? Or, as a result of the bill's being passed, would you expect the Scottish Government to provide more funding so that it does not have to come from other parts of the social work service? I am sorry that that is a very broad question. I understand the time constraints.

Gillian Booth: Yes, we would look for additional funding from the Scottish Government—that is the short answer. There is very little scope left, nationally, in our budgets to sustain the potential volume of work from the assessments. Although we have the recovery moneys and a continued commitment to them for the next five years, they sustain only what the social work service can provide at the moment. A lot of local authorities have channelled that money into third sector contracts, for example, and into providing longer-term contracts for social work staff. There is not really any additional capacity to support a longer-

term vision for providing robust and sustained bail supervision services.

Fulton MacGregor: Thanks.

The Convener: I ask witnesses to keep their answers reasonably tight, so that we can get through as many questions as possible.

Pauline McNeill: I want to ask Gillian a follow-up question. You highlighted that the bail supervision assessment is a potential weakness, because it looks at individual needs and not at wider risks to the public. I was really interested in that, because we have been asked to consider a new test.

Given what you said, does a change need to be made to the way in which things work? Who is best placed to advise the court on the wider risk to public safety? Perhaps that is a Risk Management Authority question. Do you have a view on whose job that would be? Would you have to change the kind of information that you process because of the new test?

Gillian Booth: One of your previous witnesses talked about LS/CMI. That is the risk assessment tool that justice social work applies for court reports and in the assessment of risks and reoffending by our service users while they are on statutory orders.

Somebody has to be convicted before we will carry out a full LS/CMI. The short score of the LS/CMI, which identifies the criminogenic needs—the factors that relate to somebody offending—is done at the court report stage. You can see the difficulty. We would not be able to apply that level of risk assessment to a bail supervision order, as somebody is not convicted at that stage. I have to say again that that is a service and a role that is reserved for qualified social workers.

11:00

There are good reasons why bail supervision assessments look at needs. It is a supportive service. Even if we were in a position to provide risk assessments, the difficulty is with where that public protection information comes from. We do not get that from the Procurator Fiscal Service and we do not get it from the police service. We go only on what we happen to have on our social work records. For somebody who is accused of a first-time offence, we will not really have anything to go on, which makes it very difficult to assess what risks there are to victims. We will have some information, and I suppose that that is what we have to go on, but you can see why that presents a challenge as regards the judiciary being able to have confidence in what exactly we identify as a risk and who that risk is to, including the person themselves.

One of the hurdles for us is the virtual custody arrangements that are in place. Although there was a need for those arrangements during the Covid pandemic, they present a challenge, not just for social work but for our healthcare professionals and defence agents, in that it is very difficult to communicate with your service user when they are in police custody. You can imagine trying to do an assessment on somebody who is extremely distressed and very worried about what will happen to them. Often, there might also be child protection issues and adult protection issues in the background. It is very difficult to do a comprehensive and meaningful assessment in that way. You might have only 20 minutes in which to speak to your service user.

That challenge is current and on-going, and it is an area in which we need to make progress. We need to think about trauma-informed practice; in particular, we need to think about how best to communicate with our service users.

The Convener: Thank you. Rona, do you want to come in on this? I know that Katy would like to come in on the subject of release from custody.

Rona Mackay: Very briefly—

Rhoda MacLeod: Yes. I agree entirely with Gillian Booth about access to information. Access to good health information on the individual concerned is pivotal when you are making a risk assessment. There is a challenge around how that information would be made available. We need to consider how that would be done, given the range of health information that might pertain to a particular individual. I think that that information is essential in enabling someone to inform a sheriff about a risk assessment.

The Convener: Thank you. Do you want to come in, Sandra? I will then hand over to Rona Mackay.

Sandra Cheyne: [*Inaudible*.]

The Convener: Sandra, we are having problems with your sound. I am advised that it might help if you speak a bit more closely into your microphone.

Sandra Cheyne: [*Inaudible*.]

The Convener: Sandra, I will come back to you. I hand over to Rona Mackay to ask a follow-up question.

Rona Mackay: Thank you, convener. This is for Gillian. It is a brief question about the pilot in South Lanarkshire that she mentioned.

Will you elaborate on the similarities between what you are doing and what the bill proposes to do? How successful has the pilot been? Has it finished? If not, how long has it got to run? What have the cost implications been for you so far? I

think that you said that you could not possibly roll it out permanently. It would be good to get an idea of the level of that.

Gillian Booth: We have provided two services alongside our structured deferred sentence courts, which we might have an opportunity to speak about later. For the past two years, we have had a contract in place with Sacro to provide a peer mentoring service to people on bail supervision, as well as those on diversion from prosecution. I appreciate that we are not talking about diversion today. That has run on, year on year, but it is due to conclude next March.

Our alcohol and drug partnership has commissioned a service that looks at arrest referral, diversion from prosecution and bail supervision. That support will continue—that service will be in place for the next three years. Obviously, that will take over the current arrangement that justice social work has with the Sacro contract, but that will need to continue.

If we have high numbers, we are going to need more than the service that we have through what we call the AYE project, which involves arrest referral, bail supervision and diversion. It is a service that has three areas of specialism. You should bear in mind that that has provided one or two workers—bail supervision support workers and peer mentors—at a cost of about £60,000 a year. If we needed to double that, there would be a cost associated with that. I should make the distinction that that is about the provision of support to communities. It involves making links with, for example, our Beacons service, which offers a range of services in the community, in different localities, that provide support to people who are recovering from substance use.

That practical support is one side of it. The other side is the work that court social work and social work assistants do in relation to case management, identifying action planning and the assessments themselves. That function is reserved for them.

There are two branches of funding: funding for the statutory social work side of it and funding for the support in the community. Both aspects are very much intertwined, and they need to work together to achieve the best for the person. If we are looking at where things are not working and where there might be a potential breach, we need to look at early and effective communication to try to get somebody back on track and prevent them from coming back into the court system. We have identified that the idea of a structured deferred sentence model, where there is more flexibility and greater intensity of support, has worked well with young people. We think that we can replicate that with our adult population.

Rona Mackay: The success rate in prevention of reoffending seems to be good.

Gillian Booth: Yes. The evaluation that we had for our SDS pilot two years ago revealed that 83 per cent of our young people managed to complete their period of structured deferred sentence, and 91 per cent did not reoffend during the period in which they were supported, which is a phenomenal figure. That was down to the fact that a child-centred and trauma-informed welfare approach was taken and there was an intensity of support. That worked well. That is the ethos, and those are values, that we purport to follow in our bail supervision service, and which will be critical to its future success.

Rona Mackay: That is really helpful.

Katy Clark (West Scotland) (Lab): Gillian Booth's comments in relation to virtual custodies and the difficulties with catching an individual's situation were really interesting. That was quite similar to some of the evidence that we have received from defence agents, who are in a similar position.

My question is primarily about resources and funding, and about who provides the service. It has come through clearly from the evidence that we have taken this morning that there are significant resource issues and a gap between the kind of service that the witnesses have described—the service that they believe should be provided—and what actually exists now. The main barrier to providing that service is not to do with legislation at all; it is to do with resources and funding.

How do you think that statutory minimum standards of throughcare support will impact on that? I know that there is a desire for central Government to provide that funding. Has any work been done on what it would cost your local authority to provide the kind of service that is being described? Linking in to the debate about the national care service, do you think that those standards will make the outsourcing and tendering of services easier? Do you think that that is part of what the proposals are about? Rhoda, will you come in on that first?

Rhoda MacLeod: I cannot comment on any tendering of third sector services, but I can comment on what I think the implications could be for health services. We welcome the idea of people being released before public holidays or weekends because their being released at those times creates real problems for risk management and safety of patient care, particularly if they need to be linked into alcohol and drug recovery services. People can easily fall through the net if that connectivity is not provided.

At HMP Barlinnie or even HMP Low Moss, there is a big remand turnover. There is a big churn at those prisons, which have huge admission rates compared with other prisons. In order for people to be able to enter a properly defined service that would allow their healthcare to be co-ordinated with their social care needs, there would need to be additional resource in prison healthcare. There is no doubt that that would be needed in order for us to be able to respond effectively.

We welcome what is proposed on the release of longer-term prisoners as positive, but, again, we probably could not manage to do that with the existing resources. The Parole Board for Scotland would certainly need to be supported, and there would need to be additional psychiatric and psychology resources to support the risk assessment process.

Finally, work needs to be done and resources need to be provided to connect police custody services with criminal justice services earlier. Witnesses in the previous session mentioned the third sector. That navigator role will be essential at the beginning of the process.

Gillian Booth: I would like to pull together figures on what the integrated licence would cost us, rather than commenting on that now. I can provide that information shortly after the meeting, if that would be helpful.

We are supportive of integrated licences. The challenge that I want to highlight is for our housing colleagues. We know that successful resettlement in the community needs stable housing. The challenge lies in placing people who have come from communities where there is high disadvantage and high levels of offending. Placing somebody back in those circumstances is not likely to bode well for them. That, matched with the very low stock of available housing, will make the situation very difficult. I speak for South Lanarkshire Council, but I know that my colleagues from other local authorities are in the same situation.

In thinking about the amendments that will allow somebody to be able to be released 180 days earlier than previously, we know that what works well for our long-term prisoner population is being able to be tested gradually in the community. One of the difficulties for our local authority and many others is having home leave addresses for people to go to, when they are not going back to a family home or their own property. That area needs to be funded. There are questions about the transfer of the funding from the Scottish Prison Service. If a person is not in prison for those 180 days, should that funding not come to the community where we are accommodating that person?

11:15

I also make the point that, if we have understood this correctly, additional work and resource will be required around HDC assessments. It sounds as though there will be a greater amount of work around that, but we are not entirely sure what the numbers will be for it. As I said, we support the concept of somebody coming out at the earliest stage possible where they do not pose a risk of harm to others in the community and have done sufficient work in custody for their risks to be managed. It is very important that those areas have been identified and worked on first and foremost.

There is another point that we need to be a bit clearer on. If somebody is released 180 days before the Parole Board sits, we would want to make sure that they were an individual who was going to have a longer-term release, because the risks associated with releasing somebody and then bringing them back are quite high. I am talking about things such as the risk of absconding, stress and simply not being able to cope in the community. That raises risks as well, so there needs to be further clarity around that part of the bill.

Katy Clark: Many of the points that you make are incredibly interesting, including that of how we properly cost those issues and the idea of funding following the individual, which is used in other scenarios. We would be happy to receive evidence in writing of any costings that you are able to put together.

I wonder whether Sandra Cheyne would like to make any additional points about the implications for resources and funding and who provides the service.

Sandra Cheyne: Rhoda MacLeod mentioned the navigator role. That relates to the stability element for someone who is moving within the system. A question for me is where community justice partnerships sit in supporting that move back into the community. There is a key role for Community Justice Scotland to play in that space, and for the local partnerships around that navigator role. I do not know the answer, but there is something to be thought about there.

Katy Clark: Thank you. We will take evidence on that later.

Collette Stevenson: Good morning. I want to touch on release from custody. The bill would restrict the days on which prisoners are released from custodial sentences. Do you think that that will help in their transition back into the community or could it cause potential difficulties? The written evidence that we have received contains mixed comments on that in terms of resources. We have looked at Friday releases and the lack of

resources that are available on that day from healthcare, housing and social work. In its evidence, the Wise Group said that it would not matter what day it is; the important thing is to ensure that that support is in place.

You touched on the idea of making sure that the release is at 8 am, which allows the person who is reintegrating into the community to get in touch with people at an early stage. I would like to know your views on that. I will put that to Gillian Booth first, as she is the first on the screen.

The Convener: I ask our witnesses to keep their answers as succinct as they can, as there is an awful lot to cover.

Gillian Booth: We support the idea of being able to release somebody on a Thursday if they would otherwise be released on a Friday. There should be a targeted approach. If somebody has relatively few health needs and—I am thinking about addiction specialisms—does not require medically assisted treatment, a Friday release is fine. However, where somebody needs to be linked to their prescriber, get access to keys for housing and meet their support workers, that is nearly impossible on a Friday afternoon, and it leads to breakdown.

In situations in which there is an agreement that there can be a Thursday release, that is perhaps best done at the integrated case management stage, rather than what we have at the moment, which is a laborious process through the flexible release request scheme for the Scottish Prison Service, which involves a social worker requesting a significant report to allow flexible release. There needs to be something more streamlined and agreed at the earliest opportunity to allow services to go in and provide support.

Sandra Cheyne: I agree with Gillian Booth. The approach should be person centred with regard to the requirement to be certain of the timing and what support is available to be put in place for that person.

Rhoda MacLeod: I have already mentioned linking to alcohol and drugs recovery services. Currently, that is being put at risk, so we welcome the proposals. Homelessness is the other important area. My advice is that a person-centred approach to release should be taken, rather than a blanket approach.

Collette Stevenson: Thanks. I am aware that we do not have much time, so I will not ask any further questions.

The Convener: I can come back to you if there is time.

Jamie Greene: I have only one question. If there is a move to release more people on bail, it is inevitable that many of them will come with bail conditions as part of that, as an extra safeguard. What role would you play in that? Would that generate any increased workload for you?

Does anyone on the panel have any comments to make on the use of alcohol tagging devices as part of any condition of either bail or deferred sentencing, or as a condition of early release, as a means of keeping somebody on the straight and narrow, if you like, and reducing the potential for reoffending, given the propensity for alcohol to be a substantial driver of some of the reoffending that we see on release? That is linked to the previous question about Friday release, but it is actually about how we help people.

I will ask Gillian Booth to start, as she might have more day-to-day interaction with people in that scenario.

Gillian Booth: On bail conditions, it depends on what the bail conditions are. Currently, they tend to be very standard, outlining where someone must stay away from. That is where electronic monitoring helps. I suppose that the additional work around that comes as part of the electronic monitoring support through bail supervision. We would need to consider that issue further and test what it would look like in reality before we were able to give a more definite answer on that.

Could you remind me what your second question was about?

Jamie Greene: It was about whether you think that there is a place for the use of alcohol tagging devices. We are already quite familiar with the concept of GPS monitoring as an electronic means of monitoring. Quite a large-scale trial of the approach I am talking about is being done south of the border, where, I think, nearly 7,000 devices have been rolled out, either as part of a community order or a condition of release or bail. In different scenarios, the device can be used in different ways. My understanding is that it seems to have a reasonably high compliance rate, at around 97 or 98 per cent. Do you think that that might be a helpful part of this conversation?

Gillian Booth: Yes, it would be helpful, and it would be good to explore that further. However, I would say that, for anybody going through recovery, there may be relapses, and it is important that the courts and the police take a flexible approach, so that such an occasion is not just an automatic breach that results in the person being remanded again. There has to be more fluidity in terms of support. If the situation simply involves somebody having relapsed with substances rather than committing an offence that has caused serious harm, there has to be a balanced approach, which third sector and statutory services can support. That would be my caveat.

Jamie Greene: That is helpful. Again, the committee probably needs more detail, but my understanding is that the approach is not aimed at people with long-term alcohol addiction. It tends to be better suited to cases in which alcohol was an aggravating factor in an offence and the person does not require a more hands-on, day-to-day treatment approach—it would probably not be suitable for someone who required that kind of support; you make a fair point there.

I have another brief question. If your organisation has any role in the provision or monitoring of bail conditions, what is the likelihood of, as a result of any legislation that passes, more people—[*Interruption.*] Sorry, I am getting some feedback. Will the increase in the number of people on bail put any additional pressures on what you do, and do you have any comments on the use of technology as part of that solution?

I ask Rhoda MacLeod to answer that, as she has a top-notch microphone on.

Rhoda MacLeod: It will not particularly increase pressure on us. We need to consider whether, when people are released on bail, there is a co-ordinated approach, with a holistic assessment of their health, and look at what engagement and integration there is between the health and the social care part of the support. One of the challenges is that there is a mixed bag across the country, and justice services are not necessarily integrated with health services in the way that other services are in some partnerships. In Glasgow, they are integrated, and that gives us opportunities to take a more strategic approach to those matters.

I could not comment on alcohol tagging. I would be very interested to learn more about it, but I am not in a position to make a comment about it.

Jamie Greene: How is your organisation and the work that you do funded, especially at a local level? Is it through the wider local authority funding settlement, or is there direct funding from the criminal justice budget or other directorates of the Government?

Rhoda MacLeod: The health services with a justice interface that I have responsibility for are police custody and prison healthcare, and they are funded by NHS Greater Glasgow and Clyde but are delegated to the Glasgow health and social care partnership. I am employed by the health board but I am managed via the health and social care partnership—I sit around a table with senior colleagues from social work, including justice colleagues.

Jamie Greene: That is helpful. Thank you.

The Convener: We are just about up to the half hour, so I will finish off with a question. Rhoda MacLeod, the committee has been looking at continuity of access to prescription medication for people on release from prison, which we touched on this morning. Will the proposals in the bill do anything to ensure that the gaps in provision are addressed and that people who come out of prison and go back into communities can access general practitioner and other support when they need it, which is often pretty much immediately after their release?

Rhoda MacLeod: The potential changes to longer-term release are more manageable, although there will be some resource issues. Those numbers are smaller, and it will be easier for prison healthcare to respond in those situations and make the connection with onward services.

11:30

Although I agree with the principles of the legislation, there is a challenge in how we connect people properly back into their community GP services. As you may have heard in previous evidence, not everyone who comes into prison is registered with a GP. Therefore, although we make attempts to make sure that there is a follow through, that is not always the case, because we cannot guarantee that someone who leaves prison is registered with a GP. That is a gap, and I do not think that the legislation, in itself, will remedy that. There needs to be a specific look at how we do that anyway, whether the legislation exists or not. I do not think that the legislation will solve or address that problem. It might require us to have a more co-ordinated approach, which is good and will set us on the right trajectory.

The other big issue is that the information technology systems do not talk to each other, and that is a real problem. Police custody and prison healthcare have two different, antiquated IT systems. Even talking electronically is a real challenge. Similarly, at the back door, the electronic sharing of information is a real problem when someone leaves custody. Again, the legislation might allow for that discourse to be enhanced to take those issues forward, but those issues need to be addressed whether the legislation exists or not.

The Convener: That raises some key points about communication and how important the relationships between, for example, a GP practice and local pharmacies are, and also the third sector organisations that are the first point of contact for someone on release. You have spoken about the part that IT systems and better use of IT can play in that. Can you make any other comments about where that communication process and joined-upness should be improved, regardless of whether we are discussing it in the context of the bill or not?

Rhoda MacLeod: I go back to my previous point about the need for a more integrated approach. One of the members of the committee asked a question about whose responsibility that is. For the proposals to be successful, there almost needs to be a named person—dare I say it—who does that co-ordination. I know that, earlier today, third sector colleagues made a bid for that to be them, and that might be right and proper. However, there needs to be some kind of co-ordination to allow the information gathering to come together and for someone to support the individual to make the right choices on their release.

We often see people coming into prison who have not touched health services for years, and whose health status is very poor. They then get a full MOT—to be quite honest—when they come into a prison setting, and we see their health improve quite considerably. However, if they are not connected back to health services when they are released, they can go back down that road of poor health again. Often, when those people come back into prison, we have to start the journey at square 1 again.

We do well with longer-term prisoners who are released with a good throughcare package. However, people in the shorter-term sentence group—of whom there is a greater volume—require a lot of support and help. We need to think about how that is co-ordinated. As soon as the person steps over the line at the back door, we need to know who will be there to get them registered for their house, get them down to the GP service and make sure that their prescriptions are sitting in their local addiction service.

The other challenge that exists for us is that, obviously, prisons do not serve a locality. Barlinnie sits in Glasgow, and a large percentage of our patients come from Greater Glasgow and Clyde, but a significant number come from outwith that area, so we have to talk to a variety of health boards. Low Moss is a really good example of the issue that I am talking about, and we have had on-going discussions with NHS Forth Valley around the issue of people being released at weekends and being unable to collect their prescription or be tagged into recovery services.

The Convener: Thanks; that is really interesting. I am interested in your comments about the option of having a named person.

I will bring this session to a close, but I am just going to bring in Sandra Cheyne, who has been battling with her sound today. Do you have any final comments on the issue of release and access to medication?

Sandra Cheyne: I have no comments apart from agreeing with Rhoda about the co-ordination and how that brings other—[*Inaudible.*]—statutory partners into being. I hope that you can hear me and that my mic is working. Apologies.

The Convener: Thank you very much. We are a bit distracted by your wee companion, but it is a nice way to end the panel session.

That is us up to time. I thank all the witnesses for their assistance. The session has been really informative, and if members have any further queries or questions, we will follow those up in writing. I will suspend the meeting briefly to allow our final panel of witnesses to get ready.

11:36

Meeting suspended.

11:42

On resuming—

The Convener: Welcome back. I welcome our final panel of witnesses: Keith Gardner, specialist adviser with Community Justice Scotland; Suzanne McGuinness, executive director of social work at the Mental Welfare Commission for Scotland; and Sharon Stirrat, justice social work policy and practice lead at Social Work Scotland. Keith Gardner joins us in the meeting room, and Suzanne McGuinness and Sharon Stirrat join us online. We very much appreciate your taking the time to join us.

I intend to allow about an hour for questions and answers. Given that we have two witnesses online, it would be helpful if members could indicate who their question is for and if the witnesses could indicate in the online chat function whether they would like to respond to a specific question.

I will start with a general opening question. The bill would require a court to give justice social work the opportunity to provide information relevant to bail decision making. I am interested to know whether, in broad terms, you support that provision. Can you set a bit of context around that? I will bring in Keith Gardner first.

Keith Gardner (Community Justice Scotland): Broadly, Community Justice Scotland supports that measure and the other measures in the bill. Bail is a complex landscape, as I am sure you will have heard in previous sessions. Under the Criminal Procedure (Scotland) Act 1995, two parties can give information as part of the process: the Crown Office and Procurator Fiscal Service and the person, possibly via their defence agent. In most cases, the information that a sheriff will have access to, at that point, will relate to the Crown Office opposing bail. On some occasions, defence agents will proffer information, too.

11:45

We support the proposal because it will allow for professional social work input at the right time in the process. That will give a balance of information, because one of the many things that social work, particularly justice social work, is good at is the assessment of need. That involves dynamic information based on assessment with the person there and then, as well as looking at their historical information, because, unfortunately, for many people, it will not be their first time going through the system, which will have dealt with them before.

We have tried to pre-empt some of that by introducing things such as an information-sharing agreement between Police Scotland and local authorities—27 or 28 of the 32 local authorities have now signed that agreement, which means that social work departments around the country are told, at the start of play, who is in police custody from their area, who has been arrested and charged and who will appear on the next lawful day at court. At the start of play, local authorities will know who is in police custody. That is a way of getting such information to social workers as soon as possible to allow them to begin their triage assessment. That helps if, for example, the Crown Office opposes bail. We know that, through no one's fault, the process of opposing bail can sometimes take place late in the day, so our idea was for social work departments to know, at the earliest possible juncture, who from their area is in police custody. It is not the full picture, but it is part of it.

That links to the provision in the bill because it allows social work departments to know as much as possible ahead of time and to begin the process of assessment and triage. That will allow them to provide to the court as competent and accurate information as is available in the circumstances.

The Convener: Before I bring in Suzanne McGuinness and Sharon Stirrat, I will ask a follow-up question. In the previous sessions this morning and, indeed, in some of the written submissions, a number of practical challenges were highlighted around the provision relating to criminal justice social work. We are considering the practical application of the bill, so how can some of those practical challenges be addressed?

Keith Gardner: It would be easy to jump in and say that more resources are needed. Resources are part of it, but, in relation to the wider system, it is about understanding and having better information about why the Crown Office opposes bail. Knowing not just that it opposes bail but the reasons why it does so would aid social work's understanding.

There are practicalities in that not every court has court teams available on site all the time. There is also a training issue. There has to be an understanding of the importance of this, because this is the gateway, if we discount diversion and the other measures that can be done beforehand. The complexities within this arena involve a mixture of issues relating to training, resources and culture.

A big part of it is the need to think about how to enhance the relationships between the Crown Office and social work, because it will be a change for social work to come in at that point, do the assessment and offer the information. Loads of work in a similar vein is happening across the country just now, but the bill seeks to formalise that and put justice on the same footing as the Crown Office and the accused/defence agent.

Suzanne McGuinness (Mental Welfare Commission for Scotland): The Mental Welfare Commission agrees with the bill's provisions on bail that relate to a reduction in the number of people on remand, particularly those affected by severe and enduring mental illness. We also welcome sheriffs having far more information at their disposal at the point at which a person arrives in court. From the commission's point of view, it is important that the sheriff be provided with all information about the person's mental ill health. At that point, there is an opportunity for an assessment order to be suggested as one of the options. I say that because the report that we published earlier this year about people in the prison system found that a number of people on remand are unlikely to receive a custodial sentence. We heard a number of views, and I am sure that further questions will be asked about that later.

We suggest that people who are affected by mental ill health, learning disabilities, autism and related conditions be brought to the sheriff's attention at the earliest opportunity, even before the prosecutor is involved, as my colleague outlined. Such information must include details of what the impact of custody on the person would be and information on their links to community mental health services, other local services, prescriptions and so on.

On the whole, we welcome the bill's provisions, but we would welcome reference in it to the sheriff giving consideration to anyone who falls under the provisions of the Mental Health Act 1983.

Sharon Stirrat (Social Work Scotland): Social Work Scotland agrees that the enhanced use of bail as an alternative to remand is to be very much welcomed, but there are practical and resourcing implications. There is also a difference when it comes to looking at someone's suitability for bail

and undertaking a risk assessment. We might come on to discuss that later.

There are practical implications. Earlier, the committee heard evidence that not every court has a social worker or bail officer available. Some courts run multiple hearings so, even if someone is in court, it is impossible for that person to be available in every court, and sometimes there can be some distance between the justice social work office and the local court. That is more of a challenge in rural areas.

Earlier, the committee also heard about virtual custody courts, which were used extensively during the pandemic. However, given the nature of some of the people whom social workers work with—people with multiple complex problems—carrying out a hearing over a screen and building an accurate assessment of needs can be pretty challenging. The availability of information when a bail assessment is being done is also an issue. Sometimes, a lot might be known about a person, but, on other occasions, only limited information is available. There is therefore a bit of a challenge with that side of things, too.

The Convener: Thank you. I will open up the meeting to questions from members.

Russell Findlay: Good morning. In your submission, you talk about the "historic high" that remand is at—it is up to 30 per cent—but you concede that remanding people is sometimes necessary. Have you given any thought to what level would be comfortable or reasonable for your organisation?

Keith Gardner: In 2014-15, our prison population was similar to what it is now, and our remand population was 19.7 per cent of that. Sixish years later, we are at 28-plus per cent, and we have been north of that recently.

It is an interesting question. I was in Helsinki a wee while ago and was talking to an organisation called Rise. We are not alone in this, and this is not a uniquely Scottish issue—it exists across the whole of Europe. Finland's remand population rose to 23 per cent, and they set up a commission because it was at such an unprecedentedly high level. They normally run at about 14 or 15 per cent. I caveat my comments by saying that I am never in favour of trying to lift a solution from somewhere else and dump it here wholesale, but there are elements in that. People know about the comparisons that are made with Finland: it has a similar population and similar issues to Scotland but a much lower prison population and, usually, a much lower remand population.

It is difficult to put a number on it. It is more about appropriate use. There is no question that remand, in some cases, is necessary. It is trying to find the necessity in that that is problematic. In the consideration of bail, no formal risk assessment is undertaken. The 1995 act declares that the decision on bail must be made on the day that the person appears in court. It is not uncommon for custody courts to run until 7, 8, 9 or 10 o'clock at night. I know of a recent case in which a young person was there at 11 o'clock at night before their decision was made. I say that with absolutely no criticism of any organisation or agency in the justice field—there is nobody who does not want to solve the problem.

In our most recent submission and our original submission we referred to the fact that remand should be for people who have an evidenced flight risk, where there is evidenced interference with a witness or, indeed, where there is an evidenced imminent risk of serious harm. That has changed. There will probably be a question on this later in the discussion, but remand should be for those who are unable to adhere to standard conditions or further conditions, which we usually refer to as bail supervision. Since 17 May this year, we have opened the options for sheriffs. We changed the landscape, which means that you can now have standard bail, standard bail with an electronic monitoring order, further conditions—which we usually call bail supervision—or further conditions with an electronic monitoring order. There is a number of options.

In answer to your original question, I do not think there is a number. We are not naive enough to say that it is zero, and there will always be a place for remand. The issue is its efficacy.

Russell Findlay: You mentioned Finland and its commission. Obviously, we do not want to talk about lifting things wholesale, but did that result in new legislation in Finland, or was it just a question of taking a good look at the existing systems and making them better? The question is whether we really need yet more legislation. Can the issue not be fixed with the right intent from all the agencies that are involved?

Keith Gardner: I have been in this field for a long time, and I do not think it is a question of positive intent. Everybody would want to work towards that.

If we take Covid out of the equation, our remand population has been rising inexorably since 2014-15—

Russell Findlay: So you are saying that legislation is necessary.

Keith Gardner: Yes.

Russell Findlay: Do the other two witnesses have a view on that?

12:00

Sharon Stirrat: I do not have an answer on what the number should be, but I agree with what everyone has said: 30 per cent of the population is definitely very high. We have had some evidence across social work. For instance, of the women who get remanded in custody, only a tiny number go on to get a custodial sentence, so that begs this question: why were they remanded in the first place? They do not appear to have been a risk to community safety or public protection, so there is a question about that.

The other point is that there are a number of visiting sheriffs, so they need to be confident that they know what services might be available. They are seeing an increasing number of people in front of them with multiple and complex problems. When a sentencer has someone in front of them, it is not an easy decision for them, but being aware of what is available across social work services would help. I know that there have been attempts to provide portals for sheriffs in relation to what is available in local areas, and that may assist them in the process of making those decisions.

Suzanne McGuinness: Sharon outlined one of the key points that I was going to make about women in particular, and I want to echo that.

There is not an easy answer in terms of numbers on remand, because each person must be taken on their own merits, risks and needs, and that is for the sheriff to determine. I agree that legislation is required, because a lot of things have been tried that have not worked yet. We are here today, and there is an opportunity to consolidate and bring together those services and, I hope, plug those gaps to improve services for everybody. The commission is particularly concerned with the particular needs of those who undergo mental health treatment and how that is disrupted and impacted through remand.

In answer to your question, yes, it appears that legislation needs to be implemented.

Russell Findlay: That is really helpful, thank you. I might come back in later if there is time.

Jamie Greene: I will play devil's advocate, just to probe and test the issues a little. I will start with Keith Gardner, because you are in the room.

If we are saying that legislation is required to reduce our remand population, is it not a valid observation that the remand population is so high because of the backlog of court cases and the number of people who are being held on remand for unlimited periods of time awaiting trial? There is an inevitability that, had those trials been dealt with far more quickly, some of those people would have been released or would have served enough of their sentence to be released. That is an observation. That number could come down quite quickly if we got through the backlog more quickly.

The second one is maybe more of a philosophical question. My understanding is that the Crown opposes bail only when it feels that there is good reason to, based on the information available, including information given by police and other protagonists. The judiciary will therefore remand someone only if they feel that there is good reason and they are satisfied that the argument has been made well by the Crown to do so. That is not something that we need legislation to fix, surely, because all legislation will do is tie the hands of the judiciary in the parameters that it uses to make those decisions. What do you say to that?

Keith Gardner: Your point about the number of people whom we have on remand is valid. Covid has done exactly what you say. Our capacity to invoke sections 27 or 30 of the 1995 act—mechanisms for reviewing bail—has been sorely limited by the backlog in the courts. I am sure that, from previous evidence, you will know how hard the Scottish Courts and Tribunals Service has worked to bring that down. It is an incredibly complex problem, but that is part of the reason why we have people who seem to be almost locked in the system because they were remanded. Interestingly, when you look at the remand information, you see that, when people are remanded, there tends to be a spike of a significant number of people being released on days 14 to 21. However, because people have not been coming to court, that has not happened.

Your second point was about why we need legislation. The whole landscape is characterised by a dearth of data, so we have very little data to work on. From working with Crown Office and Procurator Fiscal Service colleagues, however, we know that some of the reasons why they oppose bail are based on historical facts, such as that a person did not turn up for X, Y or Z reason or the person had an analogous offence. That is absolutely valid, but the difficulty with assessing that is that, even if a person had a previous analogous offence, the person making the decision will have no idea of the person's situation, what was happening at the time of the offence or what happened to them beforehand. In cases where people have a history of not attending court, there will be reasons for that. The bill's provisions allow social workers to assess that and, where they can—it will not be in every case, but in a lot—to proffer information to the court. They can say, "Here is what has happened to this person in the intervening time," "Here are the points that lead more towards stability," or, "This is his first offence in three years," or show that there is a support package in place to ensure that the individual will

come to court. That is partly why we introduced those other options in May this year.

Social work can bring to the court a dynamic picture of the person. A fiscal might have opposed bail for professional reasons—absolutely—but there can be other, more dynamic information. If you put both sets of information to the sheriff, that allows for a much more defensible decision. That is no criticism of any sheriff's decision about remand or bail. Sheriffs make decisions, but that information allows them to have a more holistic picture based on both agencies.

Jamie Greene: That is an interesting response, and you have almost identified the solution in your answer. First, there is a dearth of data. Let us fix that and fix the information that is available to the Crown Office to allow it to make a better decision about whether it is appropriate to oppose bail in the first place. It may take a different view if it has access to more or different types of information—more in real time, as you say.

Secondly, we do not need legislation in order to provide more information to sheriffs and judges at the time of making those decisions; we can do that already. Indeed, there have been some recent changes to the options available to them that may have a positive impact on remand numbers, but we have not really let that bed in or given any substantial time to get qualitative data out of it. Why do we need a bill to further restrict the parameters around how such decisions are made? That is what I want to get to the root of.

Keith Gardner: It is a valid question. It is partly a question of timing. If social work does not have the resources to offer a report on every case that goes through, realistically, it will only be done for bail-opposed cases. When and how the procurator fiscal declares bail opposed is a timing issue. The standard police report goes to the fiscal, then the fiscal marks the case. The fiscal might need more information, so the case will go back to the police. That is the timeline of the day. It might be early afternoon before the fiscal declares bail opposed. The case then goes to the sheriff. At that point, the sheriff says to social work, "Provide me with bail information. I am imposing further conditions, and I need to assess suitability." That might be late in the day.

The bill's provisions allow social workers to prepare their information almost in advance. You might think that, if they are going to prepare that information in advance, it will not be for the bail-opposed cases, but it is particularly helpful for cases in which bail opposed is declared. It is also helpful for identifying whether people have other needs in their community and need support for things such as mental health issues. It is not wasted effort, because there is a legal requirement under the Social Work (Scotland) Act 1968 for local authorities to provide "advice, guidance and assistance" for people in any form of detention, including police custody. It is not, in any way, a wasted effort. It allows people to have their needs assessed, there and then, and it means that there is a lawful route by which that information can go to court. That is a key factor: if it is going to be a process that we rely on, the information-sharing has to be lawful, necessary and proportionate. The bill underpins that by making it lawful information.

Jamie Greene: On the face of it, that sounds like a sensible move. If that was all that the bill did, perhaps it would be less controversial. It does not do only that, though. The other side of the bill is the question that we have not got to the root of: why there is a need to raise the bar—the threshold—of what needs to be taken into account, based on that information?

It is good that there is a route by which to get the information in front of a sheriff's nose on the day. It sounds like there will be a huge resource implication, for you and for others, off the back of that, which we have talked about at great length. However, that still does not answer the question of why, based on that information, there is a further need to redefine the parameters of how those decisions are made. I am not asking you to comment specifically on that.

I do not feel the need to ask others to comment, unless they want to. Wave at me, if you do. Otherwise, I am happy with that.

The Convener: Okay. Thanks very much.

Katy Clark: Is it not the case that, under the current legislation, there have been many occasions when there has been the kind of social work involvement that you have just spoken about at length?

Keith Gardner: Are you talking about social workers proffering information to the court?

Katy Clark: Yes. It is a long-standing tradition. Obviously there has been a decade of massive cuts in the public sector, which is a resource issue, but the approach has worked well in the past. If sheriffs do not have the information, they will often ask for it to be provided and, if they do not feel that they have the relevant information, they will continue the case before they make any decision.

Keith Gardner: It is really interesting—it all comes down to the point at which a sheriff asks social work for that information. There have been and are instances of information being proffered to the court. Part of my work involves information sharing; I will not bore you with the provisions of the Data Protection Act 2018 or the UK general data protection regulation, but the issue is to do with the lawful submission of that information to court.

Katy Clark: Social workers have been in attendance in many courts as a matter of routine for many decades now; they talk to the police about who is in the cells, who is coming in and whether they have arrived yet. If the police feel that an individual is vulnerable, they will proactively get in touch with the social worker, and if the sheriff feels that there are vulnerable individuals, they will proactively ask for social work involvement.

You can talk about cuts, but, in the past, a social worker has often been there to fulfil that role; that has been part of the way in which the criminal justice system has worked for many decades. I fully accept that the scale of the cuts in recent years might have led to an erosion of that service, but is it not the case that there have been many occasions in the past when the type of involvement that you are talking about has happened successfully?

Keith Gardner: Yes and no. One of the things that justice social workers are really good—indeed, incredibly talented—at is finding workarounds for things, but a lot of that happens on an ad hoc and unstructured basis. We now live in a different world in which the key issue is legitimacy of the information source. In this case, in particular, there is a differentiation; if you have a legal requirement to have that information, under public task, the consent of the individual is not required. With anything below that—which will include welfare and wellbeing—you require the free, fair and informed consent of the person to share that information.

This is what we have done through the information-sharing agreement: every morning from 6 o'clock onwards, every local authority will have a specific set of data, including markers such as whether the person has been logged in the vulnerable persons database, their name, their address, any aliases—stuff like that—and whether there are any particular issues around them. It is a limited set of data. As an adjunct to that, where an individual presents an imminent risk of causing harm to themselves or to others, such a situation transcends the data. That is for their own safety.

12:15

Katy Clark: So you are saying that it is a different world, because there are now legal barriers to enabling the kind of involvement that social workers might have had in previous decades. That sort of thing is being prevented from happening now, and that is the reason why the legislation is required.

Keith Gardner: I do not think that it is a barrier as such. When we share information, we are required to do so lawfully, which means that we need to demonstrate necessity and proportionality. In such cases, it is necessary, because of the legal requirement on local authorities, and it is proportionate, because we have a specific data set. That approach actually underpins that process, and it completely allows social work staff to access and use that information in a lawful way.

Katy Clark: I put it to you that, in recent years, the major barrier to social workers being present in court to perform a professional role that they have performed for many decades now has been a lack of resource and cuts.

I do not want to take up too much time, but I want to briefly ask whether the witnesses have looked at the bill's provisions in relation to the public safety test, which seems to be very poorly defined. Two of the witnesses have said that they want legislative change, because they feel that the threshold is too high and that, at the moment, people are being remanded when they should be getting bail. The issue, though, is whether this is the right legislative change. The concern is that things have been poorly defined in the drafting of the legislation, with a concept being used that has not previously been used in Scottish criminal law, and that there will be a lack of clarity about what that means. Will it mean that more or fewer people will get bail? Which kinds of individuals are more likely to get bail and which are not?

If you do not have a view on that question, you do not need to respond. Perhaps I could ask Keith Gardner, first of all, and then the other two witnesses whether they have looked at and have a view on that issue.

Keith Gardner: The answer is yes, we have looked at it. Interestingly, there is, in fact, a group looking at that specific issue just now, following on from the alternative to remand scheme, which was led by the Scottish Government. Before I joined Community Justice Scotland, my background was in social work, where I worked for decades, so I am well rooted in using the many assessment tools that we have.

As I said in response to Jamie Greene, there is no formal risk assessment in this process. If we wanted that to be the case, we would need to think about how we would do that within the allowed time span—that is, the same day. That would be impossible, to be perfectly honest.

Katy Clark: That is fine. There is no mention of risk assessment in the bill, but I hear very clearly what you have said.

Suzanne, do you wish to make any points on the drafting of the legislation or whether this is, in fact, the change that is needed? Have you looked at that properly, or is it something that you would not necessarily have a view on? Is it the overriding policy implications that you are interested in?

Suzanne McGuinness: I do not have the sort of in-depth view on the public safety test that you are looking for, so I will leave that to my colleagues.

Generally speaking, though, I would say that the aims of the legislation from a mental health perspective boil down to information sharing, communication and filling the gaps caused by insufficient resources. There are many different things to consider, and I am sure the panel has heard about them through submissions and from people like me coming along to the committee. We are here to talk about this legislation, which offers a way forward.

Therefore, on that basis, I would say yes, we support the bill. However, if you want us to have a further look at the public safety test, I can certainly do so and provide you with a written submission, should you require it.

Katy Clark: I think that the matter will end up in the courts, because it is a legal issue. I understand that people think that the system does not work and that changes need to be made, but what the committee is looking at is the question whether it is these changes that will deliver. Sharon, do you wish to make any points?

Sharon Stirrat: Social Work Scotland agrees that the number of people who present a risk to public safety is likely to be pretty small, but an accurate identification of those people needs to be based on a risk assessment. For justice social work to deliver on that would be a resource issue.

Katy Clark: Thank you. That was helpful.

The Convener: I see that Rona Mackay wants to come in. After that, though, I would like us to move on to questions on release from custody.

Rona Mackay: Going back to the issue of women in custody, which is an area on which I am particularly focused, I have what I know is a very broad question for Suzanne, Sharon and Keith. Nevertheless, I am interested in hearing their responses to it.

Do you think that the bill will bring about the necessary changes? As has been said, most women who are on remand or in custody should not be anywhere near prison, and it would be a fantastic outcome if the bill were to facilitate keeping them out of it. Do you think that there is a possibility, albeit with the necessary resources and interagency management, of the bill helping to keep women out of custody or remand?

Suzanne, could you answer that first, please?

Suzanne McGuinness: As you have suggested, if there is adequate and appropriate infrastructure in place around the bill's provisions, there will, as always, be a likelihood of success, particularly for women. In 2021, we did a report on women in prisons; some positive changes have been made as a result, but it remains the position that many women who would never have received a custodial sentence are being remanded.

We are where we are with the bill. Various things were put in previously; if they had worked, we would not be here today. However, they have not worked, and the bill has a chance of success, with the caveat that everything will need to be in place, including the implementation gap being filled. This is about sheriffs not having their hands tied behind their back with regard to options and having the information before them to make such decisions.

Sharon Stirrat: If the bill can achieve the outcome of fewer women being on remand or receiving a custodial sentence, that has to be a good thing. However, we need to ask what else is going to be in place, because the women who present in the criminal justice system come with multiple complex problems. In fact, there was some interesting research that showed that 78 per cent of women in custody had a brain injury, often related to domestic abuse. Some really complex issues have to be dealt with.

However, the fact is that the damage done when women are in prison, whether they be on remand or serving a short-term prison sentence, impacts on their life, their parenting and their family life and causes trauma, and anything that can be done to reduce that has to be worth at least considering. I do not think that any one organisation has the answer. Collaboration with the third sector and the role of mentoring are really important when it comes to working with women; indeed, we know that women comment positively on the impact of, for example, Shine Women's Mentoring Service and other voluntary throughcare services.

Keith Gardner: I have nothing to add to what my colleagues have said, because they have hit the nail on the head. It is all very individualised, but we also need to be aware of the complexity involved with women in the justice system, particularly the trauma aspect that Sharon Stirrat has highlighted. Beyond that, I have nothing to add.

The Convener: I wonder whether I can come back to Suzanne McGuinness with a question, given her position in the Mental Welfare Commission for Scotland. The committee is aware of a recent report by the commission that covered arrangements for release from prison. Can you expand a bit more on the report's findings and whether you feel that the bill's proposals will contribute to addressing the problems that you have identified?

Suzanne McGuinness: We visited every prison in Scotland late last year and early this year and,

in April, we published a report, the headline of which was that prisons are, essentially, underresourced.

You are right to say that we made recommendations on liberation from prison. We found a variable picture across Scotland, particularly with regard to medications and access to community mental health services, and an awful lot of it came down to the postcode issue. We heard from psychiatrists, individuals, medical staff and prison staff, and we found that the links with community were broken and that, without a postcode, it was really difficult for any services to make cohesive links with the community.

A small number of our respondents were on remand with little or no evidence of release plans being in place. One strong suggestion that we have made is that release should start from admission to custody, whether that be on remand, for whatever reason that the sheriff has decided to take such action, or whether it be through sentencing. We heard from prison psychiatrists and healthcare staff about liberation from court. I know that there is a provision in the bill relating to Friday release, but liberation from court is a significant challenge, because no notice is given to any services to allow any throughcare arrangements to be made. In fact, one psychiatrist described the situation as chaotic.

We have therefore recommended a cohesive, whole-system and collaborative approach from start to throughcare, with the underlying purpose of supporting vulnerable individuals, notwithstanding the fact that offences have been committed; maximising desistance; maximising people's mental health and wellbeing; and reducing the risk of a revolving door in and out of prison. There needs to be a whole-system, joined-up approach.

We also suggested more consistent use of the care programme approach, which would involve everybody—the individual, family members and representatives from the prison service, psychiatry, community provision and the third sector—getting around the table. We know that there is a resource issue in that respect but, notwithstanding that, we observed that, when the care programme approach was implemented appropriately, there were positive outcomes. It is one of the things that we recommended across the board.

The Convener: Thanks very much, Suzanne. That was really informative. You will be aware that the bill seeks to ensure that personal release plans for prisoners are developed, too, so the comments that you have made on that will be very helpful.

Jamie Greene: I have just a brief supplementary to Rona Mackay's questions on women in custody.

I listened carefully to what Sharon Stirrat had to say on the issue, and it struck me that some of this could be dealt with through the Scottish Sentencing Council rather than through new legislation. I just wondered whether you felt that the council had a bigger or better role to play around sentencing guidelines, in light of the quite prolific effect it has had on changes to sentencing guidelines for under-25s in Scotland.

Whatever your views on that approach, the academic research that it undertook formed a part of the decision making. Could the council do the same with sentencing guidelines in this respect or make other potential changes for women? Should judges and sheriffs be allowed to make different decisions on the basis of revised guidelines instead of through new legislation that has had to be introduced and which we are considering today? [*Interruption*.] I am sorry, Sharon—I think that you are on mute.

Sharon Stirrat: Can you hear me now?

Jamie Greene: I can.

12:30

Sharon Stirrat: Certainly, we would welcome sentencing guidelines that are specific to the profile and needs of women and which take account of what we have learned over the years about a gendered approach and the impact on women in the criminal justice system, including issues such as trauma. The question is whether that in itself would be enough, because they are only guidelines—that is their function. Would they alone be sufficient in achieving the aim of seeing fewer women in remand or on short-term prison sentences? I am not sure that that, in itself, would be enough—the issue might need further thought.

Jamie Greene: Thank you—you have answered the question perfectly. The premise was whether this could be addressed through changes to guidelines rather than through statutory changes that are, if you like, a bit more forceful or permanent. The question is: are we exhausting all the opportunities that guidelines might present before we take these bigger steps? I think that you have answered that, though, so thank you.

Russell Findlay: In the final page of your submission, Keith, you talk about the expanded role of criminal justice social work. Its workload will increase hugely if the bill goes through as is, in terms of bail, pre-trial, pre-release, release and, indeed, onwards. You go on to say that it is not yet known whether criminal justice social work will be part of the proposed new national care service,

which is already mired in a significant amount of controversy.

I have two questions. First, does anyone know how much all the additional work for criminal justice social work will cost? Secondly, should the changes be given time to bed in and develop before we even think about incorporating criminal justice social work into a national care service, or should the national care service come first and should these needs be factored into it?

Keith Gardner: I do not know how much it would cost. In reality, we do not know how much justice costs anyway, because we do not have, for example, unit costs for it. We have an amount of money that is allocated, for example, for a community payback order or a diversion case. Whatever funding is allocated to those activities just now, it will be that times whatever the volume is.

Given the size of the remand population and the difficulties that we know remand brings, notwithstanding the fact that it is necessary in some cases, the argument for investment in the approach is cogent, whatever it costs, as opposed to the cost of not doing it. It will bring increased costs not just for the provision of that facility at court but for ancillary services such as the training that Community Justice Scotland offers to the sector. There are a number of complexities.

Russell Findlay: Should criminal justice social work be part of the national care service?

Keith Gardner: A group has been formed specifically to consider that. There is a parallel approach with children and families services and justice, and the Scottish Government-led group has commissioned research to look at the whole question of what justice social work does in the community justice landscape and its interaction with partners. The answer to your question is that no decision has been made yet. The point and purpose of the group is to form a recommendation in 2023—an options appraisal is being created just now—that will eventually go to the cabinet secretary for a decision.

Russell Findlay: I do not know whether we have time to hear from anyone else, convener.

The Convener: I think that Sharon Stirrat would like to come in.

Sharon Stirrat: We have a group in Social Work Scotland that is trying to update unit costs, because what we have is probably pretty out of date when you take account of the cost of living and inflationary increases. A group is actively looking at costs across justice social work more generally.

The other resource issue in all this is the workforce issue. There is a national recruitment and retention problem so, even if we had a bagful of money, we would need to find competent workers and paraprofessional staff. We are also grappling with that. We published a report called "Setting the Bar for Social Work in Scotland", which highlights those issues and the views of social workers as a profession on what they are dealing with, workloads and so on.

On Keith Gardner's point, I am part of the reference group that is looking at whether justice should be in or out of the national care service, but that is at a really early stage.

Fulton MacGregor: Good afternoon to the witnesses, and thank you for your evidence so far. I was going to ask the same question that Russell Findlay did, but I will instead ask a supplementary. How does the fact that the Bail and Release from Custody (Scotland) Bill and the National Care Service (Scotland) Bill will go through at the same time impact planning? We have heard that recommendations and decisions have yet to be made about whether justice social work will be part of the national care service. I do not know whether you listened to the earlier panel of witnesses and to some of the questions that I and others asked. That panel talked about the impact on social work staff and how planning could be done on that. How does the situation impact on planning? Is planning for the social work service aspect of the bill based on the current set-up, or is there a parallel plan in case the service goes over to the national care service, which would, obviously, make for a more uniform approach across the country?

The Convener: Who would you like to come in first, Fulton?

Fulton MacGregor: I am happy with anybody. Perhaps Keith, since he is in the room.

Keith Gardner: I am happy to answer that, and my answer is that I do not know. There is so little detail about what the NCS might look like beyond the number of care boards. The nitty-gritty will determine a lot of it. For example, if the legislative requirement for a court report, which currently lies with the local authority, is moved to a care board, technical issues would need to be resolved to make that happen. In the interim, one of the questions that the reference group on whether justice social work is in or out of the NCS, which Sharon Stirrat and I sit on, is looking at is more about the longer term and how we improve outcomes for people. In some respects, whether the service is in the NCS is a structural question, but the bigger issues that the committee has talked about, such as bail, remand and early release, will still be issues whether or not justice social work is in the NCS.

Your point about looking at what would it mean if justice social work were in the NCS is right. Unfortunately, at this point, there is not enough solid detail on what the NCS and justice social work in the NCS would look like. Equally, there is no detail about what it would look like if justice social work were not in the NCS.

Fulton MacGregor: Sharon, given what Keith said, is the planning for the implementation of the bill based on the current community justice model?

Sharon Stirrat: There is some dual planning. There is an awareness that the national care service may or may not happen for justice, but it is about trying to anticipate that the bill might become an act. Social work welcomes the principle that fewer people should end up on remand or doing short-term prison sentences and that there should be better planning for people coming out of custody. However, the big concerns, as I have mentioned, are about workforce and resourcing.

As I said, research has been commissioned to look at what we do about workforce, how to encourage students to want a career in social work and how we can work collaboratively with the third sector to deliver some of the outcomes of the bill, should it become an act of Parliament. There are regular on-going discussions at the justice standing committee to plan for what that might look like. However, we have limited control over some things—for example, if we do not have enough social workers, we have to make decisions about the priorities.

Fulton MacGregor: I am aware of the time, convener, so, unless anybody else wants to come in, I am happy to leave it there.

The Convener: I am watching the time. I will put a final question to all three of the witnesses on something that I do not think we have covered this morning, which is the proposal in the bill that minimum standards for throughcare be developed. It is a simple question: are you supportive of that proposal?

Keith Gardner: Briefly, the answer is yes. The caveat is that, as with many of these things, it is not just about standards; it is about how they are implemented and monitored and the feedback for improvement. However, broadly, we would welcome standards for the agencies involved.

Sharon Stirrat: My response is the same, really. The setting of minimum standards is really welcome. It helps with the consistency of services, so that, no matter where you are up and down the country, you can expect the same standard of service. I know that work is going on in the Scottish Government to rewrite standards on throughcare, for instance. That would be welcome.

Suzanne McGuinness: I echo my colleagues' sentiments. We would welcome standards, for all the reasons that they have set out. I also suggest a specific reference in those standards to access to mental health services.

The Convener: We are almost out of time. It just remains for me to thank you all for attending. It has been a really useful session. If there are any outstanding points that members have or that the witnesses feel the committee should pick up, we can write about that.

Jamie Greene: Convener, can I make a comment?

The Convener: Yes, of course.

Jamie Greene: Thank you for your forbearance. I want to make this point while we are in public. We have a live panel and have had two other panels. Of the nine witnesses from whom we took evidence today—this is not a criticism, so please do not take it in that way—only one responded to the call for evidence from the Finance and Public Administration Committee when it was analysing the financial memorandum for the bill. That ran from July to September. I appreciate that some organisations may not have been aware of it, because it is often difficult to uncover calls for evidence.

Today, we heard evidence on some of the work that is on-going on the bill's potential financial and resource effect on the witnesses' organisations, but we can use only what is in front of us when we prepare our stage 1 report. I ask all nine organisations, with the exception of Glasgow City Health and Social Care Partnership, which responded to the consultation, to raise with the committee any financial analysis or concerns in writing at the earliest opportunity, so that we can include that in our stage 1 report. Without that information, we cannot comment.

The Convener: Thank you, Jamie.

I thank our witnesses for attending. That concludes the public part of our meeting. Next week, we will hear from the Minister for Mental Wellbeing and Social Care as part of our scrutiny of the National Care Service (Scotland) Bill.

We now move into private session for the final item on our agenda.

12:46

Meeting continued in private until 12:58.

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