

Criminal Justice Committee

14th Meeting, 2022 (Session 6), Wednesday 20 April 2022

Priorities in the justice sector and an Action Plan

Note by the clerk

Introduction

1. The Criminal Justice Committee published a report (10 January 2022) setting out its [priorities for the criminal justice sector in Scotland and its Action Plan](#).
2. Following the publication, a number of organisations and individuals have provided a response to the Committee's findings. These are set out in the **Annex** to this paper. Submissions have been received from the following:
 - Scottish Government (various submissions)
 - Police Scotland
 - Scottish Police Authority
 - COPFS
 - The Lord Advocate
 - Rape Crisis Scotland
 - Survivor
3. Members may wish to note that the Scottish Government chose not to respond to each of the individual responses in the Committee's report, stating:

"To avoid an overly cluttered delivery and reporting landscape I have I set out ... the strategic context and links to the themes explored by the Committee in the report and encourage this response to be read alongside both the Vision and our year one delivery plan, rather than iterate a line by line commentary on the individual report recommendations."

Action

4. Members of the Committee are asked to consider the information received as part of their deliberations at today's meeting.

Clerks to the Committee
April 2022

SCOTTISH GOVERNMENT (RESPONSE TO THE REPORT)

Dear Convener

I would like to take this opportunity to respond to the Committee's report 'Judged on Progress: The need for urgent delivery on Scottish justice sector reforms'. I know that this report is the product of the Committee's consideration of issues which were raised at a series of roundtables between September and November 2021. I note that the report includes an action plan in Annex A. Many of the specific actions in the action plan align with commitments already set out in the Scottish Government's Programme for Government. The Committee will also be aware that on the 8 February I published a new Vision for Justice which included a year one delivery plan, with specific proposals for action over the coming year. There was a debate on the same day which demonstrated broad consensus and support across the chamber for many of the ambitions, while of course there are also some areas where there is a divergence of views.

To avoid an overly cluttered delivery and reporting landscape I have I set out below the strategic context and links to the themes explored by the Committee in the report and encourage this response to be read alongside both the Vision and our year one delivery plan, rather than iterate a line by line commentary on the individual report recommendations. I have also provided a number of points of detail where I thought it would be helpful for Committee members. I understand that a number of the justice organisations will be providing a response directly to the Committee on operational issues they are responsible for.

I would welcome further discussions with the Committee as the Scottish Government and delivery partners look to develop a three year delivery plan, setting out the short, medium and long term actions required to fulfil the new Vision for Justice. Work to develop this will take place over the coming months and will run in tandem to the spending review process.

A new Vision for Justice in Scotland

The Vision for Justice outlines the Government's ambitions for transformation across the Justice Sector over this parliamentary term and beyond. The Vision as published on the 8 February was endorsed by the national Justice Board, including the leaders of key justice organisations. Work to develop the Vision was carried out in collaboration with the justice partners represented on the Justice Board and wider actors in the sector including the third sector, academia, judiciary and the legal profession. This included engagement with representatives of victims and survivors.

Our new Vision for Justice will strive to deliver a just, safe, resilient Scotland. This will see us living in safer, more tolerant and inclusive communities, free from inequality and hate. The vision sets out the aims and outcomes which describe what a transformed justice system would look like and addresses the full span of Justice journeys. In recognition of the immediate challenges faced by the sector, particularly

by criminal justice services, a fifth aim focuses on recovering and learning from the coronavirus pandemic. It recognises the need not just to deal with the court backlogs and other impacts of the pandemic, but to take the opportunity to transform how justice is delivered, with a focus on person-centred services.

The outcomes featured in the new Vision are based on international evidence on what we know works to achieve them. We have also drawn on existing evidence and projects on lived experience of the justice system to help shape the Vision for Justice.

This evidence provided, including in the Evidence Supplement published alongside the Vision, we hope is helpful in defining the issues the sector will work to address and highlights the opportunities to take a fundamentally different approach in order to improve outcomes for the individuals who require justice services.

I am clear that work to progress the outcomes and achieve the five aims should be done in a different way – considering how we deliver services and take forward improvement not just what we are delivering.

I am focussed on ensuring that justice services are delivered in a person-centred and trauma-informed way. Person-centred justice services will ensure that a person's needs and values are respected. There will be timely, clear communication ensuring people understand areas of complexity. Individuals and their families will be involved in decisions which affect them, with a recognition that people are the experts in their own lives. This means that within the parameters of legal frameworks and justice processes, people will be treated as a person first. People will be treated with empathy and kindness and provided with the support they need to thrive. The importance of this person-centred approach emerged strongly from our engagement with stakeholders.

Additionally, the strategy recognises the trauma often inherent in the circumstances leading to a person's engagement with the justice system. Indeed, there are often people who are both victims and offenders in different circumstances. It is our duty to ensure in delivering justice services we minimise further trauma or re-traumatisation to help recovery. Embedding trauma-informed practice will ensure that our justice services recognise the prevalence of trauma and adversity, realise where people are affected by trauma and respond in ways that reduce re-traumatisation.

Ensuring that our justice system is both person-centred and trauma-informed would fundamentally change the experience of those who require justice services. We are repeatedly told by survivors and victims of crime that their experience of justice can affect their feelings about and confidence in justice processes. These experiences are often as important as the conclusion of a case.

In order to truly deliver these changes, the culture of service delivery within the sector will need to shift. The Committee rightly names the report 'judged on progress' and this was a sentiment echoed during the debate on the new Vision. We must match our ambitious policies with on the ground delivery.

One step to help us do so will be the development of the workforce framework for taking a trauma informed approach to victims of crime. NHS Education Scotland are developing this new trauma-informed knowledge and skills framework, for use across all our justice services and a draft will be available for engagement by April 2022. I

share the committee's ambition to see this rolled-out and explore the possibility to expand this to other users of justice services.

I also know that we must ensure greater cross public sector working to more effectively prevent crime and harm and improve life chances for individuals. Success in building safer communities and preventing crime is, put simply, beyond the ability of the Justice System alone, and requires a partnership approach within Government and across public services.

We know that to address the causes of crime Scotland's public services together must tackle societal inequalities such as child poverty, mental ill health, addiction and adverse childhood experiences. We must not criminalise those who are most vulnerable in our society. I am clear that it should be this Government's duty to reset the social contract with our public services – ensuring everyone is supported at the earliest opportunity to improve their life chances and reduce the risk of offending. We must also ensure that the right services are provided at the right time and, where appropriate, support people outwith the justice system entirely.

I recognise we have more to do to ensure that there is consistency between our policies and our practices. At present there are areas of disparity in the availability of services which must be addressed to enable a national person-centred and trauma-informed approach.

COVID19

As the Committee has examined, long standing issues have been, and continue to be, exacerbated by the COVID19 pandemic. It is therefore right that we should look to renew our public services, build on the lessons we have learnt during COVID19 to ensure greater resilience in our services and address the immediate and medium-term impacts that necessary public health measures have caused.

The Scottish Government continues to support justice agencies to take action to address the backlog caused by the COVID pandemic. While renewal activity is aimed at improved services and creating more efficiency to benefit those experiencing the justice system now and in the future, parallel work to increase capacity in the system is having an immediate positive impact on backlogs. In addition to the significant investment made to allow essential justice services to continue and restart during the pandemic so far, a further £53.2m has been committed for 2022/23 to continue to support recovery across the system, including maintaining the currently enhanced court programme. This is in addition to recovery funding provided through the separate COPFS budget; through the demand-led Legal Aid Fund, etc. We are continuing to work with justice agencies and other stakeholders to consider the longer terms requirements for recovery.

Our experience through the pandemic and the recent consultation on the provisions which have helped inform the development of the Coronavirus (Recovery and Reform) (Scotland) Bill, has thrown new light on the opportunities and challenges of 'digital' justice. The use of these measures as part of our response to the pandemic has enabled swift process changes that have allowed court and tribunal services to operate more efficiently. Stakeholders have highlighted where the digital interface between the court user and court processes and business has delivered measurable

paybacks, both in terms of time and efficiencies. Consideration of a permanent legislative framework for a more digitally-enabled system will allow a programme of engagement to hear the full range of views based on experience of digital processes, and emerging evidence about the value and challenges of new approaches. We will continue to engage with all those with an interest in the Justice sector as we look to develop an inclusive and accessible digital landscape for the future.

Priority areas of action

In the new Vision for Justice I set out three priority areas of action which are key to making significant progress towards delivering the strategy's overarching aims. These priority areas also broadly match a number of the Committee's areas of recent focus.

1. Women and Children in Justice

Violence against women and girls, in any form, has no place in our vision for a just, safe resilient Scotland. We must recognise the role our justice system plays in perpetuating inequalities for women and children, as victims, survivors or indeed those accused of crime or offenders. We are committed to tackling the behaviour that stems from systemic, deep rooted women's inequality which leads to violent and abusive behaviour by men directed at women and girls precisely because they are women and girls. During 2022, we will take forward necessary preparatory work to support the national rollout of the Caledonian domestic abuse perpetrator programme, with the aim of making it available to all 32 Scottish local authorities by the end of the parliamentary term.

I will prioritise systemic changes to improve the experiences of women and children building on the recommendations of Lady Dorrian's report on the Management of Sexual Offences. We have already established a multi-agency Governance Group to consider the recommendations. This will include ongoing work to oversee progress on non-legislative recommendations. Any necessary legislative changes will be subject to formal public consultation to gather views on key issues that require legislation – including matters related to a specialist sexual offence court.

The women's Justice Leadership Panel, chaired by the Minister for Community Safety, met for the first time in January 2022. We will support the work of the Panel with a thematic examination and strategic discussion of issues unique to women and directly related to embedding women's rights within the justice system.

During the current year, our new, trauma-informed, female custodial estate will become operational, including a new national facility and two innovative Community Custody Units in Glasgow and Dundee. Additionally, we will continue to deliver a reinforced and reinvigorated Whole System Approach to prevent youth offending. To the extent possible, we will work to ensure that no under-18s will be remanded or sentenced to detention in a young offenders institute. We will continue to invest in services to strengthen support for families affected by parental imprisonment and to listen to the voice of the child in family law cases. During the lifespan of the vision we will fulfil our commitment to provide access to a Bairns' Hoose for every child who needs it.

2. Victims

Whilst the rates of offending and victimisation have fallen under this Government, we must ensure that those who are victims are heard. The vision places victims at heart, enshrining the need to deliver person-centred and trauma informed services.

In delivering the new vision, victims will take a more prominent role in cases, experience fewer delays and be supported in their recovery. We will work with justice organisations, to mitigate the impact of attending court for victims, for example through the prerecording of evidence for vulnerable witnesses. We will do so by supporting the VRI pilot, ensuring further extension of the provisions within the Vulnerable Witness legislation and progressing the 3 year national rollout of the Scottish Child Interview Model for Joint Investigative Interviews.

We have invested over £88m through our justice budget alone, to support victims in the past five years. We are also investing an extra £4m next year in victims' services, measures to tackle violence against women & girls, and support for the justice system to respond to victims' needs.

Towards the end of last year we launched the Victim Centred Approach Fund, worth at least £30 million over the next three years. This will enable organisations to provide practical and emotional support to victims, survivors and witnesses of crime across Scotland. Services will provide support for those bereaved by crime in Scotland or abroad, provide advocacy support for survivors of gender-based violence and fund support and assistance for victims of human trafficking. Announcements on funding awards will be made in the next few weeks.

Subject to public consultation and consideration by Parliament, proposals are being developed for the appointment of an independent Victims Commissioner for Scotland to represent the views and interests of victims of crime and their families. In developing the proposals and necessary legislation to establish a Victims Commissioner, we will draw on the views of current victims organisations and undertake public consultation.

We will progress our review of the Victim Notification Scheme. This will build on measures we introduced in 2014 and 2015 to extend the Scheme and will draw on the experiences of victims and their families to review both the scope and operation of the Scheme.

We also legislated last year to increase flexibility in the victim statement scheme and this year we aim to pilot ways for more victims' voices to be heard in court.

We will also progress the Restorative Justice Action Plan to ensure access to restorative justice services by 2023 and will begin this year the roll out of restorative justice services across pilot areas.

3. Shifting the balance

For nearly 15 years this Government has delivered bold, effective justice reforms, with a firm focus on early intervention, prevention and rehabilitation. During that time, we have seen large falls in the number of young people within the criminal justice system, fewer people experiencing violent crime, and Scotland's reconviction rates now at one

of the lowest levels in the last 22 years. The more we support people with convictions as they serve their sentences – whether in prison or in their communities – the more we can reduce reoffending, and thereby help keep crime down and communities safe. Everything we do is driven by a commitment to public protection and victim safety.

We can continue to lock people up to look tough on crime, or we can follow the evidence and focus on what works – taking decisions which, while sometimes challenging, can actually reduce crime further, meaning fewer victims and less suffering. This includes understanding the holistic approach to preventing crime and harm in our communities as well as what kinds of sentences are most effective at reducing reoffending.

While prison will always be necessary for those who pose a risk of serious harm, the reality is that for many more it disrupts family contact, housing access and employment opportunities – all of which we know support desistance from crime.

We will reduce the use of imprisonment and continue the debate on who and what prison is for, including how to better accommodate individuals in the system from a trauma-informed perspective. The Scottish Government ran a public consultation ‘Bail and Release from Custody Arrangements in Scotland’ between 15 November 2021 and 7 February 2022 which sought views on a range of proposals focused on bail and remand and on the mechanisms governing the release of prisoners. The responses from this consultation will inform a Bill which we are intending to introduce before summer recess.

It is intended that the Bill will introduce a number of reforms around bail and release from prison custody. The Bill is designed to deliver on the Scottish Government’s commitment to change how prison custody is used with an early focus on the use of remand, and give a greater emphasis to the rehabilitation and reintegration of individuals leaving custody, while maintaining a focus on public safety and the safety of victims.

The Justice Vision recognises the challenge of the increasing remand population in Scotland and sets out actions to tackle this head on. In addition to introducing legislation to reform the law governing bail and release from prison custody, this includes a commitment to strengthen community-based alternatives to remand.

Over the course of this parliament I will also be seeking to increase the availability of options enabling diversion away from the criminal justice system, where appropriate.

The Scottish Government has committed to investment in a substantial expansion of community justice services supporting diversion from prosecution, alternatives to remand, and community sentencing, which evidence shows is more effective at reducing reoffending. In 2021-22, we provided an additional £11.8m to support community justice services in recovering from the pandemic and that will increase to £15m in 2022-23, with some specific investment in relation to alternatives to remand. In addition to around £119m of continuing funding, this will help build capacity and resilience to support a sustainable recovery, contribute to the expansion and transformation of community justice services.

This work has begun and in 2022/23 we have allocated an additional £3.2m of targeted funding aimed at increasing capacity across Scotland. This funding seeks to ensure that bail supervision becomes available in all parts of Scotland and that bail assessments, for bail supervision and electronically monitored bail, are being consistently undertaken at increased levels in every court. This additional funding will be complemented by the publication of national guidance on both bail supervision and electronically monitored bail, providing increased direction and clarity on standards of practice.

To support all of this work, a revised National Community Justice Strategy is being developed. It is expected that the new strategy will be published during spring 2022 following a public consultation exercise, setting out clear aims for partners with an emphasis on early intervention and encouraging a further shift away from the use of custody.

Specific Issues

In this response to the Committee I also want to update on a number of specific issues which the Committee raised.

Deaths in Prison Custody

I advised Parliament on 30 November that I accepted all the recommendations in principle of the Independent Review of the Response to Deaths in Prison Custody.

A roundtable was held on 2 February 2022 with key stakeholders (SPS, NHS, Scottish Government, the Crown Office and Family Advisory Group members) which set out the routemap for progress by all agencies and sought collective agreement on next steps, including that an external Chair should be appointed to provide strategic leadership and oversight of the process. All agencies agreed to work at pace to fulfil the recommendations.

We will continue to provide Criminal Justice Committee with regular updates at key milestones in progressing the Review recommendations. As previously committed, I will provide an update on progress against all the recommendations in Summer 2022.

Civil Recovery

The Proceeds of Crime Act 2002 is a powerful tool used to disrupt criminality and remove profits from unlawful conduct. It provides for the confiscation (in criminal proceedings) or civil recovery of the financial benefit derived from unlawful conduct. There are two main routes for recovery: (1) post-conviction confiscation via the criminal courts (criminal confiscation); and (2) civil recovery of items of property derived from unlawful conduct, including seizure/forfeiture of cash, certain assets and funds frozen in bank accounts. Cases may also be referred to HMRC for consideration of liability for taxation.

Use of the Act's civil or criminal powers provides a key role in disrupting criminal activity and is an embedded feature of the Serious Organised Crime Strategy.

The Committee has indicated it wishes to know more about the civil recovery aspects of the Act. Unlike the rest of the UK the enforcement powers for civil recovery in Scotland were vested in Scottish Ministers rather than a statutory agency. In order to fulfil this statutory function, a dedicated unit called the Civil Recovery Unit (CRU) was established in 2003. The CRU is a multi-disciplinary team comprising financial investigators, a forensic accountant and lawyers and reports to the Lord Advocate who is the relevant portfolio minister. It undertakes civil recovery proceedings in the civil courts where, for example, a person is found to have a large sum of money or assets and where there is evidence that they originate from unlawful conduct.

CRU receives referrals from the prosecution and law enforcement agencies, but exercises its functions separately and independently of the COPFS. It can use a combination of investigative and enforcement powers to target and recover property obtained through unlawful conduct including organised crime.

Since 2006 the Civil Recovery Unit has recovered over £60 million: £31.6 million has come from asset recovery and £28.5 million from cash seizures as at end 2020/21. In 2020/21, £2.3 million was recovered from asset recovery and £3.2 million from cash seizures. Since the implementation of the Act in 2003 over £124 million from POCA receipts in Scotland have been returned to the Scottish Consolidated Fund.

The confiscation order process following a conviction is undertaken by the Proceeds of Crime Unit within COPFS and taxation matters under POCA are pursued by HMRC.

Throughcare

The Committee's report recognises the views of the Drug Death Taskforce in support of the reinstatement of "throughcare officers", and the potential to prevent Friday liberations to better facilitate individuals' access to public and other support services upon release.

The Scottish Government issues £3.7m in annual grant funding to support the operation of voluntary throughcare services operated by partnerships of Third Sector services across Scotland, who are continuing to provide valuable support to thousands of individuals each year. Local authorities will also offer voluntary throughcare to prison leavers who request support, alongside the statutory provision of supervision and throughcare by Justice Social Work to prisoner released from long sentences and/or post-release orders.

Regarding the reference to "reinstating" throughcare - the SPS suspended the operation of its dedicated Throughcare Support Officers in 2019. Any decision over their future is an operational matter for the SPS to decide, as this activity was developed by SPS and is not required by statute, and was operated from within their existing resources. The Scottish Government will continue to support the development of dedicated throughcare services, as well as the wider involvement and co-ordination of wider public and third sector services that are needed to ensure that the needs of individuals are met upon their release from prison. This wider engagement is vital to the delivery of throughcare, and will improve their prospects of reintegration and rehabilitation – and reduce the likelihood of their reoffending. This is reflected in the topics raised in the Scottish Government's recent consultation on bail and release processes – which invited views on the potential for a public duty on public bodies to

engage in the pre-release planning process; the potential for improved guidance on the delivery of release and throughcare activities; and the potential for the Scottish Government to take action to prevent all liberations from prison on Fridays and before public holidays, to better enable individuals' to access the services they need. As noted above, the responses to the consultation on these issues will inform the planned Bail and Release (Scotland) Bill.

Sentencing guideline and training.

The Committee has asked for details of plans to implement and monitor the recently introduced sentencing guideline relating to young people. This Committee wanted reassurance that the guideline is consistently applied by the courts and also requested details of training and support provided to prosecutors and sheriffs.

The guideline is the responsibility of the independent Scottish Sentencing Council and the High Court, which approved it. Within the context that sentencing is always a matter in any given case for the court, my officials asked the Sentencing Council for their views on the recommendation from the Committee relating to a consistent application of the guideline.

The Sentencing Council has confirmed the guideline on sentencing young people came into force on 26 January 2022. They indicated the guideline is intended to promote consistency in sentencing practice, in line with the Council's statutory objectives, and courts must have regard to it when sentencing those who are under the age of 25 at the date of their plea of guilty or when a finding of guilt is made against them. Courts should record any decision not to follow the guideline. The Council has an obligation to review all of its published guidelines from time to time, and the Council has indicated it will consider how best to do that in relation to this guideline once it is well-established in our courts and there is sufficient data on its use.

The recommendation also referred to training for the judiciary. Statutory responsibility for the training of the judiciary rests with the Lord President, as Scotland's most senior judge. As such, my officials asked for comments on this aspect of the recommendation from the Scottish Courts and Tribunals Service.

SCTS advise that the Judicial Institute is delivering a sentencing course on 9 March which is specifically focused on the use and implementation of this sentencing guideline. A key note speech is being delivered by the Lord Justice Clerk and there is a session with the Hon. Mrs Justice McGowan on the experience in England and Wales. In addition the Chief Executive of Community Justice Scotland is delivering a session looking at the lived experience of young people involved in the justice system. There is also a practical session led by Sheriff McFadyen with case studies. SCTS further note it is intended that this course will be repeated in the second half of 2022.

Scottish Fire and Rescue Service

The Committee discussed some issues related to the work of the Scottish Fire and Rescue Service (SFRS). As such my officials have engaged SFRS and would wish to highlight the following actions:

- SFRS recognise the importance and support the adoption of trauma informed and family inclusive practices and as such are committed to raising awareness and ensuring there is internal training.
- The SFRS pilot concerning the use of Naloxone has been launched by the First Minister and includes an awareness campaign with all staff alongside training to take part in the pilot on a voluntary basis.
- SFRS are involved in a number of key preventative work strands to reduce offending and harm in communities. This includes the FireSkills programme - a targeted approach to anti-social behaviour and fire setting, engagement in schools around thematic action plans - e.g. bonfire night, and Fire Safety Support and Education work in HMP Polmot and secure care settings with young offenders.

Legal Aid

The Committee also considers the need for pace and focus on legal aid reforms.

Prior to the pandemic, the Scottish Government had published a response to the recommendations made by Martyn Evans' independent review of legal aid; held a public consultation on legal aid reform; and convened the Legal Aid Payment Advisory Panel which has now completed. This was alongside on-going work to review specific legal aid fees.

As the pandemic took hold, immediate work had to be undertaken across Government to deliver the emergency Coronavirus legislation. This included provisions to assist with cash flow for legal aid providers, and also to provide support by way of increases to fees, grants and a fund to support the employment of trainee solicitors by legal aid providers.

We want to continue to engage with the legal profession to introduce reforms in the shorter term that will assist the providers of legal assistance, their clients and the court system, and also to prepare for the introduction of a Legal Aid Reform Bill in this Parliament. Proposals for solemn and summary criminal fee reform were issued to the Law Society of Scotland and the Scottish Solicitors Bar Association in February.

We note the results of the Bellamy Review of Criminal Legal Aid in England and Wales. This review produced meaningful recommendations due to the factual data provided by the profession. This type of evidence supported review is what was recommended by the Legal Aid Payment Panel.

During its roundtable sessions, the Committee asked about the potential for Public Defence Solicitors Office (PDSO) and the Solicitors Contact Line (SCL) to play a larger role in the justice system. These employed solicitor services allow for planned and targeted provision of criminal defence services and in particular for supporting police station and court duty schemes. The Scottish Government is grateful for the role played by these employed solicitors in upholding access to justice, minimising impact on defendants and assisting the smooth running of the courts.

I recognise the fundamental importance of a well-funded and resourced legal service for all our needs in civil society. In the Vision we set out ambitions to better improve outcomes around our ability to access justice services and ensure confidence in the

system. Reforms of legal aid will ensure a person-centred approach to justice can be facilitated.

In order to make progress the Scottish Government will focus on substantive legal aid reform and intends to introduce a Legal Aid Reform Bill in this Parliament.

Youth Justice

Reducing offending by children and young people and safeguarding them within the youth justice system with a view to keeping under 18s out of young offenders institutions, is a key priority for this Government as outlined within the Programme for Government. The Committee asked for details of progress and timescales to meet this ask. We have committed to a Children's Care and Justice Bill and development towards this is underway. This will set out legislative proposals to meet the aim that no under 18s are placed in YOI and that children who need their liberty deprived are cared for in safe, secure, trauma informed environments, such as secure accommodation.

Practice and cultural change is also required. We are working with partners exploring alternatives to remand with secure care and intensive community based alternatives to be used instead. This includes future funding and provision of secure care in Scotland by 2023, with initial funding arrangements to be in place before the summer around financial support for 4 placements. Discussions are also underway to evaluate the needs of the under 18 population in both secure care and YOI to ensure appropriate supports are in place as well as adequate availability for the introduction of the legislative changes.

I hope this response is helpful in your continued examination and consideration of the challenges and opportunities facing the justice system.

Keith Brown MSP

SCOTTISH GOVERNMENT (LETTER ON THE VRI PILOT)

Dear Convenor,

Thank you for your letter on 16th February 2022 on behalf of the Criminal Justice Committee.

Regarding your specific question on the VRI Pilot and why no cases have yet progressed to trial, this will be due to a number of factors. Longer time frames involved in the investigation, preparation and scheduling of solemn proceedings for rape and attempted rape cases contribute to the period of time between the visually recorded interview and any trial. This was expected at the start of the pilot and follows the same pattern as other cases where written statements are taken. The first visually recorded interviews took place with the launch of the pilot in November 2019. In terms of court scheduling, prior to the coronavirus pandemic, information from the Scottish Courts and Tribunals Service (SCTS) indicates that the average length of time for cases to call in the High Court for trial from first calling was 22 weeks.

However, despite the prioritisation of cases of this nature by SCTS, the impact of Covid has been significant and SCTS has previously indicated that the average length of time for cases to call in the High Court for trial from first calling is now roughly under a year.

As of 10th March, 21 cases have been indicted, with 12 cases scheduled for trial and 2 cases having proceeded to trial. It is our hope that these cases will begin to progress in the coming months and provide data of the efficacy of visually recorded interviews being used in court settings.

Regarding next steps for the usage of VRIs, the VRI Pilot Advisory Group (“the Advisory Group”) will function as an Implementation Group to deliver the recommendation on VRI and will report to the Governance Group on the Lord Justice Clerk’s Review Group Report on improving the management of sexual offence cases. The Advisory Group agreed in the short term at least until May that it would still be referred to as a Pilot pending formal implementation plans being developed and agreed.

Work is being taken forward by Advisory Group partners, Police Scotland and COPFS, to prepare an initial route map setting out the priorities and factors on what is required to scale up. This will inform the Advisory Group implementation plans and timetabling. These plans will be shared with the Governance Group for agreement. This is ongoing and definitive timescales are unavailable, at present, due to the interdependencies of this work. The Advisory Group are clear that these necessary steps must be taken to ensure that we can deliver without compromising the integrity of the initiative.

Further to my letter to the Committee about the reporting requirement at section 14 of the Domestic Abuse (Scotland) Act 2018, you asked to be updated on when the element of the reporting requirement relating to the outcome of domestic abuse cases prosecuted in the criminal courts will be available. Publication of this information relies on data held on Police Scotland’s Criminal History System and as set out in my earlier letter, it is necessary for enough time to pass to ensure that all cases being dealt during the reporting period have been uploaded to the system, as well as a requirement to

CJ/S6/22/14/1

carry out quality assurance checks on that data prior to publication. I can confirm I will keep the Committee fully informed of our plans for publication of this information.

Keith Brown MSP

SCOTTISH GOVERNMENT (LETTER ON THE VICTIM NOTIFICATION SCHEME)

Dear Convener

REVIEW OF THE VICTIM NOTIFICATION SCHEME

The purpose of this letter is to provide the Criminal Justice Committee with information about the Review of the Victim Notification Scheme (VNS).

Background

The VNS gives effect to the rights introduced by Part 2 of the Criminal Justice (Scotland) Act 2003. Eligible victims have the right to receive certain information about the release of a prisoner. In some cases, a victim may also have the right to be told when the prisoner is considered for parole, and to make representations about their release.

The Scheme is operated by the Scottish Prison Service and also involves: Crown Office and Procurator Fiscal Service; Scottish Courts and Tribunals Service; and Parole Board for Scotland. Victim support organisations are also involved through the provision of support to victims who are considering joining or have joined the scheme.

The Scottish Government is committed to ensuring that the VNS is fit for purpose and serves victims effectively, supporting delivery of a more person-centred, trauma-informed justice system. In line with that commitment, I wish to advise you that an independent Review of the VNS is being launched.

Appointment of chair and vice-chair to the review

I have appointed Alastair MacDonald as chair of this review. He is a former chair of Victim Support Scotland and has previously worked as Associate Inspector for Her Majesty's Inspectorate of Constabulary for Scotland. Alastair brings a wealth of experience and insight into his role as chair, as well as expertise in working with justice agencies in a review capacity.

To strengthen the review and ensure that the chair is appropriately supported, I have also appointed Fiona Young as a vice-chair to the review. Fiona currently provides specialist advice and expertise to public and third sector organisations on criminal justice and community safety.

I will also be writing to the criminal justice agencies involved to ensure their participation in the review.

Next steps

The intention is that the review will run for approximately 12 months. The initial remit of the review is as follows, noting this may be subject to some change as the review progresses.

CJ/S6/22/14/1

The independent review of the VNS will ensure it is fit for purpose and is serving victims effectively in line with Scottish Government's commitment to create a more person-centred justice system. The review will include:

- Key partners, victim support organisations and victims being interviewed;
- Current processes being mapped and understood;
- Links to the Scottish Government's development of a victim-centred approach and the practical application of the justice system engaging with victims in a trauma-informed manner;
- Potential consideration of legal and data protection issues given the statutory nature of the scheme and the sensitive nature of the information involved;
- Consideration of the scope of the scheme, for example in relation to non-custodial sentences;
- Interactions and dependencies with the VNS for victims of offenders with a mental disorder, operated by SG Mental Health Division;
- Development of clear, actionable and costed recommendations for improvement which take account of financial considerations.

To support public understanding of the review as part of its supporting secretariat function, the Scottish Government intends to publish information about its work, and I will ensure this is drawn to the Committee's attention in due course.

I trust that your Committee will find this information useful.

Keith Brown MSP

SCOTTISH GOVERNMENT (LETTER TO STEPHEN KERR MSP ON THE COVID-19 CHILDREN AND FAMILIES COLLECTIVE LEADERSHIP GROUP SUB-GROUP ON UNDER-18S IN CUSTODY)

Dear Convener

Thank you for your correspondence of 9 March requesting further information regarding children in prison in Scotland. This request is following the Children and Young People's Commissioner Scotland (CYPCS) response and oral evidence provided as part of the Education, Children and Young People Committee Stage 1 scrutiny of the Coronavirus (Recovery and Reform) (Scotland) Bill.

The issue of under 18s in Young Offenders Institutions (YOI) in Scotland is one which has received increasing attention, not only through campaigning by the CYPCS but also HM Chief Inspector of Prisons Scotland, Wendy Sinclair-Gieben and the Children and Young People's Centre for Justice all calling for legislation to end the detention of under 18s in YOI. It is widely accepted that where loss of liberty is required for under 18s, that this should be in age appropriate accommodation, as outlined in The Promise. The Promise Change Programme includes a commitment that, by 2024, 16 and 17 year-olds will no longer be placed in YOI on sentence or remand.

You have enquired about any assessments the Scottish Government has carried out regarding the current situation relating to children in prison; and about actions the Scottish Government is taking.

Reducing offending by children and young people and safeguarding them within the youth justice system with a view to keeping under 18s out of YOIs, is a key priority, as outlined in the current Programme for Government. The decision on whether to keep someone under the age of 18 in custody is a matter for the independent courts. However, it is clear that as a Government we need to ensure, looking forward, that both practice and legislative changes are put in place to garner confidence in alternatives to YOI. Through keeping The Promise, we are committed to ending the placement of 16 and 17 year olds in YOI without delay.

We published a new Vision for Youth Justice in 2021. The vision continues to build on the successes over the last 13 years around reductions in under 18s prosecuted in court (down 85% since 2008-09) and in 16/17 year olds being placed in YOI on remand or sentence.

According to Official Statistics, the number of under 18s in custody on 30 June 2007 was 221. As of 14 March 2022, that number was down to 15, of whom 10 are on remand. The youth justice Vision represents a shared foundation between the Scottish Government and partners to keep children out of the criminal justice system, and promote the Whole System Approach to preventing offending by young people focused on early intervention, diversion from prosecution, and alternatives.

We have also committed to a Children's Care and Justice Bill, as set out in our 2021 Programme for Government. A full public consultation on its policy proposals will be undertaken shortly.

This will involve stakeholder consultation and engagement to elicit views on a range of matters, including on whether all children for whom it has been assessed as necessary to be deprived of their liberty should be cared for in safe, secure, trauma informed environments, such as secure accommodation.

Ministers consider that the best approach for the Coronavirus (Recovery and Reform) (Scotland) Bill, ahead of the proposed Children's Care and Justice Bill, is to extend the specific temporary provisions in the Coronavirus (Scotland) Act 2020 ('the 2020 Act'), as consulted on last year.

There was no discussion of new powers, or of changing the prisoner early release provisions, in the consultation leading up to the current Bill process. The existing temporary legislation requires that any early release process can only be instructed by Scottish Ministers where it is necessary and proportionate to do so to support the safe operation of prisons, and the health of prisoners and staff – specifically from the effects of Covid-19.

No matter the legitimate public policy objective, the power cannot be used for other reasons, including to amend the sentencing or conditions of a specific group or type of prisoner, or to release them early for any other reason.

The 2020 Act early release provision does not create a power for Ministers to order the early release of remand prisoners, of any age. Remand prisoners have a different legal status, as they are being held at the decision of the court in advance of trial. It is open to any remand prisoner to seek a bail review, and to present their case to the court, that they should be bailed.

Therefore, the early release provision does not apply to the large majority of under 18s in Polmont, as they are being held on remand. The provision does apply to under 18 year old sentenced prisoners, where they meet the conditions in the 2020 Act, and the specific regulations set out in the SSI detailing the conditions for the individual release process. In May 2020, one young person under 18 was eligible for early release, and was granted it. A public consultation has been conducted regarding possible reforms in relation to the law around bail and release from custody for all individuals, including under 18s. The analysis of responses to that consultation will be published in the next few weeks. This will inform the development of an upcoming Bill on these topics, which was also detailed in the 2021 Programme for Government.

Ministers consider that the proposed legislation above are more appropriate vehicles than the Coronavirus (Recovery and Reform) (Scotland) Bill to address the much needed legislative requirements regarding children in custody in a holistic, comprehensive and sustainable manner.

Whilst we look to make legislative changes, practice and cultural change is also required. We are working with partners, through implementation groups delivering the youth justice vision, to explore alternatives to custodial remand - with secure care and intensive community based alternatives to be used instead. Gap assessment is being undertaken, and good practice will be shared across the sector by September 2022.

Negotiations are well underway on the future funding and provision of secure care in Scotland. If agreements can be reached, we hope to have a materially different approach in place by 2023, with initial funding arrangements to be confirmed before the summer. Discussions are also underway to evaluate the needs of under 18s in both secure care and YOI, to ensure appropriate care and safety supports are in place as well as adequate availability of places ahead of the planned legislative changes.

In 2021, the Children and Young People's Centre for Justice carried out research into the experiences of young people on remand in Polmont. The purpose was to better understand the pathways to remand. 14 of the 18 children in custody at the time were on remand, and 12 of those were over the age of 17. Key themes from the research included a lack of a consistent approach to information sharing and communication on outcomes and availability and barriers to providing alternatives to remand. This has been influential in developing proposals for the planned Care and Justice Bill.

In December, the Covid-19 Children and Families Collective Leadership Group (CLG) established a short life group to deliver improvements for under 18s in YOI and to seek to reduce the number held there. The CLG brings together national and local government and other partners to respond to immediate concerns for children, young people and families with vulnerabilities during the pandemic, and provide longer term support for recovery and renewal.

The short-life group was set up in response to issues raised in the HMIPS – Year of Childhood Pre-Inspection Survey 20213 and CLG's role in supporting UNCRC Implementation and maintaining momentum on work to Keep The Promise by removing all children from YOI.

The short life group met virtually on 3 occasions between December and March with an initial remit of addressing the issue of under 18s being isolated in YOI as reported by HMIPS in the pre-inspection survey report, and understanding the key opportunities to provide additional support and alternative approaches to custody. It is understood that there have been a number of improvements for under 18s in YOI. These include:

- Re-alignment of full time Barnardo's worker to work closely with individuals and reduce social isolation and encourage participation in activities.
- Engagement with young people around their ambitions - training opportunities available through Fife College.
- Access to vocational training for both remanded and convicted individuals.
- Provision of mobile phones for all under-18s - 930 monthly minutes provided.
- Unless there are restrictions in line with Scottish Government health requirements because of Covid-19 outbreaks, there are no restrictions to the regime for 16 and 17 year olds in Polmont. Staff proactively engage with young people in communal areas and in their cells depending on the activity.
- Re-alignment of full time Inclusion Officer in January 2022 to support young people to engage in activities and connect and improve relationships with their families.
- The Scottish Prison Service has identified techniques that can be applied to control a distressed individual, but which do not rely on the application of

pain/pressure. The identified techniques are in line with interventions used across other secure services and are more supportive of working within a more trauma-informed approach.

A report set out 4 recommendations to be delivered (i) Undertake a Trauma Informed Review of the Young Persons Pathway to YOI; (ii) Recognising the needs and rights of the young person and support their understanding of court processes to ensure meaningful participation; (iii) Assess and review key policies through the lens of UNCRC and other human rights treaties; and (iv) Identify and remove legal impediments to alternatives to remand and take immediate action where possible to remove under-18s from custody.

These recommendations will now be addressed as part of the legislative plans discussed above and as core elements in Scotland's wider activity in relation to youth justice in the period between now and 2024.

I hope that this response is helpful.

I have copied this letter to the Conveners of the Covid-19 Recovery Committee and the Criminal Justice Committee, for their respective interests in the Stage 1 scrutiny of the Coronavirus (Recovery and Reform) (Scotland) Bill.

Keith Brown MSP

CJ/S6/22/14/1

POLICE SCOTLAND

Dear Convener

Criminal Justice Committee 'Judged on Progress: The need for urgent delivery on Scottish justice sector reforms'

Thank you for the opportunity to provide a response to the Criminal Justice Committee's report titled 'Judged on Progress: The need for urgent delivery on Scottish justice sector reforms'. I note that the report includes an Action Plan, created following a number of evidence roundtable sessions, which will be used by the Committee to monitor progress of the delivery of improvements by Scottish Government and other bodies, including Police Scotland.

On 15 December 2021 DCC Malcolm Graham, along with DCS Samantha Faulds, attended the Criminal Justice Committee and took part in an evidence session relating to violence against women and girls (what more can be done to improve the way such crimes are prosecuted and how the survivors of these crimes and their families can be better supported at all stages of the criminal justice system). Following your letter dated 21 December 2021, DCC Graham provided a response on 28 January 2022 which included a response to the SPA as a reference. I have attached this response (**Appendix A**) as Police Scotland's update to the references and recommendations in relation to violence against women and girls within the report.

I have provided Police Scotland's current position in relation to some references to policing in the report and commented on relevant recommendations directly (**Appendix B**).

I trust that the information provided offers reassurance that Police Scotland is committed to working in collaboration with key partners to build on existing public trust and confidence through the delivery of change across the organisation.

If I can be of any further assistance, please do not hesitate to contact me.

Yours sincerely,

Gary Ritchie
Assistant Chief Constable

Appendix A

Dear Convener

Criminal Justice Committee Evidence Sessions - Violence Against Women and Girls

Thank you for the opportunity to provide evidence to the Committee on 15 December 2021 and for your letter dated 21 December 2021.

Police Scotland is resolute in our determination to tackle violence against women and girls and welcome the focus on what more can be done to improve the way such crimes are prosecuted and how the survivors of these crimes and their families can be better supported at all stages of the criminal justice system.

I am aware that in this new parliamentary session, members of the Committee have been looking at efforts to tackle violence against women and girls, measures that have been proposed to improve how these crimes are prosecuted and how the criminal justice system supports survivors of these crimes.

The purpose of the session with Detective Chief Superintendent Faulds and I was, as I understand it, for us to comment on the evidence heard so far and for the Committee to seek our views on what more can be done to improve the way such crimes are prosecuted and how the survivors of these crimes and their families can be better supported by the different bodies within the criminal justice system.

In your letter you provided general comments on views of the Committee that the evidence heard did not sit with the views you had recently heard from victims of serious sexual assaults and domestic abuse. You also stated that you did not doubt Police Scotland's commitment, albeit 'real improvement is not possible without first accepting there is an issue'.

I would re-iterate the emphasis I repeated several times during the session; that Police Scotland values and is further developing our means of listening and acting upon feedback of experiences particularly in this area, and recognises there are further improvements to make, within policing, the justice system and of course the society in which such crimes occur.

As you are aware, the Scottish Police Authority has statutory duties under the Police and Fire Reform (Scotland) Act 2012, including to maintain policing, to hold the Chief Constable to account, and to promote and support continuous improvement in the policing of Scotland.

Tackling violence against women and girls has been the subject of significant informal discussions with the Scottish Police Authority and public scrutiny at recent Scottish Police Authority meetings.

This includes most recently at a meeting of the Policing Performance Committee on 9 December 2021 and the full Scottish Police Authority Board meeting on 19 January 2022.

During this the Chief Constable repeated his absolute commitment to tackling violence against women and girls.

To help inform this response, I attach a copy of the [report on violence against women and girls](#) that was published in advance and discussed in detail during the public meeting. This was 'livestreamed' publicly, and the broadcast is still available to access. I will not repeat detailed points made in the report, but trust it assists in addressing some of the broader assertions in your letter.

In terms of the focus of the Committee Evidence Sessions, I trust you will also agree that in this report, Police Scotland recognises the importance and need to listen to, and act upon, survivor feedback and over recent years has made significant efforts to ensure appropriate engagement with survivor groups across the violence against women and girls network.

It further outlines the relationships that have been developed with advocacy groups including Rape Crisis Scotland and the governance process adopted in terms of reviewing survivor feedback, particularly where negative, in order to identify specific learning opportunities or particular trends, to ensure an improved quality of service.

You will note that in the main the feedback from the substantial number of respondents is positive, however to further enhance and develop this, Police Scotland is leading a multi-agency working group.

As a consequence of this scrutiny session and discussion a number of actions were agreed, including the Scottish Police Authority convening a seminar to consider the Police Scotland draft violence against women and girls strategy, in consultation with broader stakeholder groups.

You also outlined a number of further questions relating to a variety of matters relating to violence against women and girls. For ease of reference, I have provided a detailed response to each of these attached at 'Appendix 2'.

I trust the information provided offers reassurance and demonstrates the tangible progress made in tackling violence against women and girls, in all its forms. I fully recognise the need to continually improve our response, in collaboration with others, and am committed to building on existing public trust and confidence, through delivery of systemic and sustainable change across the organisation. The translation of strategic ambition, plans and policies into improved quality of service at the frontline of policing is key to successfully achieving such change.

If I can be of any further assistance please do not hesitate to contact me.

Yours sincerely

Malcolm Graham
Deputy Chief Constable
Crime and Operational Support

Appendix B

1. Report references to Police Scotland

Page 20, paragraphs 135 -138 – ‘Use of Naloxone’

The Committee heard a lot of support for the use of Naloxone nasal spray by those in the criminal justice sector, and more widely, to revive people who have overdosed on drugs. Police Scotland indicated that there was little concern about the police use of Naloxone, with the exception of the Scottish Police Federation’s (SPF) views.

Following the evidence session, the SPF provided a written submission on this point. It states that “The SPF considers that Scotland’s drugs death crisis is a tragedy that deserves much more focus, effort and attention than “sticking plaster” approaches such as issuing police with Naloxone Spray”. The SPF believes that “the solution to tackling the drugs deaths crisis is not this”. The SPF believes that police officers have a “role in the response to drugs misuse but that role is not a medical one”.

The pilot of police officers volunteering to carry and administer Naloxone is currently subject to academic evaluation. Following the evidence session, Police Scotland confirmed that the Naloxone Test of Change programme has concluded, and an independent evaluation of the process is being undertaken by the Public Health Surveillance Sub-Group of the Drugs Death Task Force (DDTF) and the Scottish Institute of Policing Research. It is expected to be completed in early 2022. Anonymised data from the project will be available for use in academic papers, conference presentations and presentations to policy makers.

Police Scotland’s drug harm reduction team will consider any learning from the evaluation and make recommendations to the Chief Constable.

Police Scotland Update

The Naloxone Test of Change period has concluded, the independent evaluation has been published and presented to the Police Scotland Leadership Board, with the decision being made to roll out the carriage of Naloxone to all operational officers, up to and including the rank of Inspector.

The National Drug Strategy Group will continue to meet during the delivery phase of the roll out to provide ongoing scrutiny.

Page 30, paragraph 196 – ‘Safety and Wellbeing (VAWG)’

The Committee also heard that the police service does not take stalking and harassing behaviour seriously enough, despite it being known to lead to worse behaviour, with the onus being incorrectly put on the victim to try to avoid the person.

Police Scotland Update

Tackling Stalking and Harassment is a priority for Police Scotland and we are committed to working with our partners to reduce the harm it causes. A significant focus has been placed on supporting officers and staff to acknowledge the impact stalking has on victims and deliver a service that effectively brings perpetrators to justice. This has been achieved in close consultation with key internal and external partners including Action Against Stalking and the Suzy Lamplugh Trust.

In order to support the operational response to incidents of stalking and harassment Police Scotland has invested in the following areas:

Implementation of a new Stalking and Harassment Standard Operating Procedure (SOP) and Toolkit. The SOP defines the expected policing response to and the investigation of stalking and harassment. It also clearly defines the roles and responsibilities expected of both local and national divisions. The Toolkit provides practical advice and guidance for police officers and staff when responding to reports of stalking and harassment.

The Suzy Lamplugh Trust delivered training to Police Scotland Officers focusing on risk identification and management, evidence gathering and Non-Harassment Orders. The successful pilot has been used to assist in revising current Police Scotland training in relation to Stalking and Harassment and develop further training.

In addition, updates to Police Scotland reporting tools will assist officers in highlighting risk and vulnerability when reporting incidents of stalking to Crown Office and Procurator Fiscal Service (COPFS).

Police Scotland is currently developing an internal Stalking campaign to increase officers awareness on the impact stalking has on its victims and enable them to readily identify distinctive perpetrator behaviours when responding to reports of stalking.

The introduction of the Domestic Abuse (Scotland) Act 2018 did see a reduction in the number of stalking incidents recorded by police under Section 39 Criminal Justice (Scotland) Act 2010, this in part, is due to approximately 60% of stalking incidents reported to police being committed within the definition of a domestic relationship. In 2020/21 Police Scotland detected 95% of all Domestic Abuse (Scotland) Act 2018 offences.

Notwithstanding this additional legislation, Police Scotland during the last 3 years continue to detect and report on average 84% of all stalking incidents reported to the Police in person, online or through third party reporting centres.

Page 40, paragraph 260 – ‘Barnahus’

Children 1st are working in partnership with social work and police colleagues, as well as other partners, to develop a model of practice that can be researched, evidenced and scaled up across Scotland. The House will be based in East Renfrewshire, working closely with the North Strathclyde Partnership which is piloting the new National Joint Investigative Interview (JII) model of practice.

Police Scotland Update

SCD Child Protection Policy have had recent meetings with Children 1st regarding their two proposed sights for “The House for Healing” and are invited along to a site visit on 24th February 2022. Police Scotland will support Children 1st and their design team for the properties and form part of the Scottish Government’s Delivering the Vision Standard’s Development working group for the development of ‘Bairns Hoose’ across Scotland – the first meeting was held on 3rd March.

2. Recommendations involving Police Scotland

MISUSE OF DRUGS

Report Paragraph No. 148 - Recommendation

In our view, from the evidence heard, there appears to be a service gap between what is currently being provided to help those with a drug problem and what is needed. This gap needs to be addressed. As such, we believe that rapid progress needs to be made with:

- The recommendation of the Taskforce that there should be same day access to Opiate Substitution Therapy alongside the provision of Take-Home Naloxone supply.
- A further roll out of trauma-informed training across the criminal justice sector where this has not already been provided.
- Consideration given to providing additional resources for local authority schemes aimed at diversion from prosecution and greater flexibility and understanding shown to the participants, in the administration of those schemes.
- Consideration of whether there is scope to replicate the kinds of schemes in Scotland that are in place elsewhere in the UK which provide for diversion of prosecution not only at the point of arrest. The concept of diversion will only work if there are appropriate schemes to divert people to and the Committee would like to see evidence of what these schemes are. Therefore, the Committee invites local authorities and others to confirm the resources in place to provide these schemes.

Police Scotland Update

Police Scotland is committed to working alongside partners through the Criminal Justice and the Law sub group of the Drugs Death Task Force to explore opportunities to reduce harm within the existing legislative framework and is piloting a referral service for vulnerable people who use drugs. This service, which commenced on 5th July 2021, runs in parallel with the established Criminal Justice process and will allow officers to refer relevant individuals into support services from the initial point of contact (as opposed to being considered by Procurator Fiscal or Court at a later stage in the

process). The project is initially being trialled in the Inverness area with discussions underway to expand the service into Dundee and South Lanarkshire.

Police Scotland will continue to explore new and innovative opportunities for early intervention and diversion from prosecution. This includes discussions with other UK forces, the most recent being West Midlands, to discuss their whole systems approach and to identify any practices that could be adopted and utilised in Scotland.

Police Scotland continue to work with partners to help those with substance use issues and raise awareness of the support available. An example of this being a recent project where Police Scotland worked in partnership with the charity Scottish Families Affected by Alcohol and Drugs to create and distribute 110,000 Naloxone Awareness Cards. These are being provided by police officers to persons who have suffered non-fatal overdoses, their family or friends, or anyone else likely to come into contact with a person likely to suffer an overdose.

The distribution of these awareness cards is already raising public awareness on how to obtain a potentially lifesaving piece of emergency treatment and highlight Police Scotland's commitment to adopting a public health approach to ensure the safety and wellbeing of people in Scotland. These cards will be included in the Naloxone pouches being distributed to all officers during the national roll out.

Police Scotland will continue to work alongside our partners to assist anyone with substance use issues and, through internal communications to our officers, raise awareness of the local support services available, thus ensuring we continue to provide a public health approach to reducing substance harm.

VIOLENCE AGAINST WOMEN AND GIRLS

Report Paragraph No. 228 - Recommendation

The Committee recommends that the Scottish Government and the organisations within the criminal justice sector progress implementing Lady Dorrian's recommendations that are aimed at improving procedure, practice and culture as a matter of urgency.

Police Scotland Update

Pre dating Lady Dorrian's recommendations and in March 2015, the Scottish Courts and Tribunal Service (SCTS) published their Evidence and Procedure Review which called for Scotland to harness the opportunities that new technology brings to improve the quality and accessibility of justice. Since then SCTS have published a 'next steps' report and established a number of working groups, which included representation from Police Scotland, COPFS and Rape Crisis Scotland (RCS), to consider in more detail the proposals in their Review.

The Scottish Government also introduced the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill to the Scottish Parliament in June 2018 and this was enacted on 13th June 2019. The Act makes provisions to allow a 'prior statement' of children and other vulnerable witnesses to be used as Evidence-in-Chief in criminal

proceedings to better avoid such witnesses having to give evidence personally in court.

Police Scotland, supported by the Scottish Government and in conjunction with our partners in COPFS and RCS seek to improve rape victims' experiences of the criminal justice process. In that regard, a 2 year pilot project within 3 local policing divisions commenced in November 2019, utilising specially trained Sexual Offences Liaison Officers (SOLOs) to visually record witness statements (Visual Recording of Interviews – VRI) provided by adult complainers and 16-17 year old complainers of rape and attempted rape.

The pilot is subject to internal scrutiny and evaluation by means of an internal debrief process. In addition and to supplement this process, the Scottish Government have invested £75,000 for the implementation of an external evaluation process by the Leading Improvement Team from the Scottish Government, with a view to informing phased national implementation. A Memorandum of Understanding (MoU) has been agreed between all parties involved and a number of documents, including operational guidance have been created and internal governance processes have been established, to assist officers involved and to capture relevant data.

In order to support the operational effectiveness of the pilot, a Strategic Advisory Group, consisting of representatives from RCS, COPFS, Police Scotland and Scottish Government, has been established for the duration of the Pilot to provide collaborative strategic oversight, make recommendations and provide key feedback.

Initially the pilot was due to formally end on 1st November 2021. A proposal was submitted and agreed by the Strategic Advisory group to continue and formalise the usage of VRIs in current pilot areas beyond the formal end date. It has since been approved that the pilot would be extended until 31st of March 2022. The extension of the pilot ensures continuity and retention of skills prior to a formal decision on the nationwide rollout of the VRI process being agreed.

In terms of upskilling the existing 730 SOLO trained officers in VRI, a short life working group has been established to identify new course content and national delivery. When this has been agreed a training strategy will be put in place to deliver this to existing SOLOs. Simultaneously work is currently ongoing to scope the Police Scotland estate to identify current fixed sites, the IT platform and equipment and to establish a National standard for the format and layout of interview rooms pending further expansion of SOLO VRI as business as usual activity. Whilst it is recognised that Police Scotland is progressing this work as a matter of urgency, it is worthy of note that Police Scotland does not operate in isolation and there a number of interdependencies specifically with COPFS and SCTS, in order to achieve parity across the criminal justice system.

Report Paragraph No. 229 - Recommendation

Some of the areas where we would like to see faster progress include, but are not restricted to, the following:

- Improved communication with complainers, including the provision of a single trauma-informed source of contact from the reporting of an alleged sexual offence until the conclusion of proceedings.
- The expansion of advocacy support services, in so far as possible, to ensure greater support is provided to complainers throughout the process.
- Trauma-informed training implemented for all personnel who deal with traumatised and vulnerable people.
- The provision of visual recording of police interviews with complainers in sexual offence cases and used as evidence in court.
- The provision of evidence on commission to all complainers of sexual offences.
- Ground Rules Hearings (GRHs) introduced for any occasion when a complainer is to give evidence on commission or at trial. These should ensure that witnesses are questioned in a calm, measured and respectful way to avoid re-traumatisation.
- Consideration of the right of complainers to independent legal representation. This is a gap in the system which needs urgently addressed.
- Court measures adopted to ensure the comfort and safety of victims and witnesses.
- Steps taken to enhance the quality of jury involvement.

Police Scotland Update

Police Scotland is committed to being Trauma Informed and the executive lead is ACC Gary Ritchie. In the period to date a significant focus has been placed on supporting officers and staff to deliver a trauma informed service to victims of crimes regularly associated with having substantial adverse impact e.g. domestic, sexual and child exploitation. This has been achieved in close consultation with NHS Education for Scotland (NES) staff who have supported delivery to Detective Training Division.

A specific programme has also been developed and is delivered to all probationary officers. This has been delivered at Scottish Police College since October 2019 by trained Partnership Preventions & Community Wellbeing (PPCW) Division officers.

In addition, PPCW have supported other national divisions to test the adoption of trauma informed training e.g. Custody Division have delivered a programme of training for staff in Greater Glasgow. This is in the process of being formally evaluated.

PPCW Division are leading on developing a plan to extend the coverage to include all Police Scotland personnel. This will support the work of the Victims Task Force and will be in close consultation with our key stakeholders in Justice, including NES. A significant focus will be on supporting local policing divisions to deliver trauma informed awareness raising in conjunction with local partners. A series of workshops are arranged for the first six months of 2022 and will include a strategic oversight group.

Report Paragraph No. 230 - Recommendation

The Committee asks the Scottish Government, Police Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Courts and Tribunals Service, the Faculty of Advocates, and the Scottish Courts and Tribunals Service to provide details of the progress made to date on implementing Lady Dorrian's recommendations.

Police Scotland's Update

Please see update provided at Recommendation 228

Report Paragraph No. 231 - Recommendation

The Committee will then seek a further progress update from these organisations in six months' time and will want to see significant progress being made during that time.

Police Scotland's Update

Police Scotland notes this recommendation and will await the committees request in due course.

Report Paragraph No. 232 - Recommendation

The Committee asks the Scottish Government for an update on how it is co-ordinating measures across relevant portfolios to identify and address the causes of violence against women and girls.

Police Scotland's Update

Police Scotland are developing a VAWG strategy and will continue to work collaboratively with the Scottish Government. An officer from PPCW Division has been seconded to the National Police Chiefs' Council Violence Against Women and Girls Taskforce to ensure collaboration and the sharing of best practice continues across the border. PPCW Division will continue to lead on prevention activity and areas for development have already been identified.

Report Paragraph No. 235 - Recommendation

The Committee asks the Scottish Government to review the implementation of the standards of service for victims and witnesses by Police Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Courts and Tribunals Service, the Scottish Prison Service and the Parole Board for Scotland. This is to determine whether these organisations are meeting their statutory obligations outlined in Section 2 of the Victims and Witnesses (Scotland) Act 2014. The review should be informed by survivors of sexual assault and domestic abuse, as well as practitioners who provide support.

Police Scotland Update

Police Scotland will participate in any review carried out by the Scottish Government.

Report Paragraph No. 241 - Recommendation

The Committee asks Police Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Courts and Tribunals Service, and the Lord President, Lord Carloway, for details of how they address unacceptable behaviour and language and ensure that their workforces are meeting the needs of vulnerable and traumatised people. This should include: details of any codes of practice and ethics and how these are enforced; transparent complaints processes; and how recruitment processes have been adapted to attract a more diverse workforce that meets the culture, skills and principles of the organisations.

Police Scotland Update

Every action undertaken by Police Scotland is founded upon our values framework, constituting the values of fairness, integrity, respect and the upholding of human rights. The application of such values ensures that the public, communities and partners are willing to engage with and have confidence in Police Scotland's discharge of its obligations under the Police and Fire Reform (Scotland) Act 2012.

Police Scotland use and promote the following documents which contain information and guidance on standards of behaviour and agreed processes to investigate and address complaints of unacceptable behaviour.

- *Code of Conduct (Authority / Police Staff)*
- *Code of Ethics*
- *Disciplinary Procedure (Authority / Police Staff)*
- *Equality, Diversity and Dignity*
- *Grievance Procedure*
- *Leadership, Training and Development (LTD) and Leadership and Talent (L&T)*
- *Operational Command Training Police Incident Officer (PIO) Course*
- *Equality Diversity Inclusion*
- *Recruitment, Selection and Promotion*
- *Professional Standards – this core function is to maintain, promote and improve professional and ethical standards, to protect the integrity and reputation of Police Scotland and to further enhance public trust and confidence. Some of the related guidance documents include Complaints about the Police SOP Divisional Guidance, Police Scotland Conduct Regulations and Standards of Professional Behaviour*

CJ/S6/22/14/1

VICTIM'S RIGHTS and VICTIM SUPPORT

Report Paragraph No. 270 - Recommendation

The Committee asks the Crown Office and Procurator Fiscal Service, the Scottish Courts and Tribunal Service, Police Scotland and Social Work Scotland for their views on how the scheme for vulnerable witnesses is working. In particular, whether there are delays in offering this service to victims.

Please see update provided at Recommendation 228

SCOTTISH POLICE AUTHORITY

Dear Convenor

‘JUDGED ON PROGRESS: THE NEED FOR URGENT DELIVERY ON SCOTTISH JUSTICE SECTOR REFORMS’

I refer to the above report from the Criminal Justice Committee published in January, incorporating an action plan to track and monitor progress on the recommendations made by the Committee across the Criminal Justice sector.

The Authority, and Police Scotland, share your ambition to address the complex issues raised within this report. The challenge, which extends beyond policing, exists in closing the gap between that ambition, and effective and consistent service delivery to the public.

In relation to the cultural issues raised, the Authority has welcomed and supports, the resolute commitment of the Chief Constable and his senior leadership team to tackling poor internal culture and behaviours wherever they exist. There is widespread agreement that Police Scotland can, and will, do more and at increasing pace to improve culture, equality, diversity and inclusion; both within the workforce and to enhance the experience of citizens and victims receiving these vital policing services.

Evidence and insights from our own data, enhanced by discussions with local government representatives, indicate a welcome level of confidence in policing across Scotland and a high level of trust. An issue we are currently exploring through a project delivered with civil society partners, local government and Police Scotland is the consistent lower level of confidence in our more hard pressed communities.

All of these issues are currently subject to regular and ongoing discussion, and review between the Authority, Police Scotland and others. The Authority has been clear that we expect to see more measures, metrics and milestones to provide the evidence on progress and greater transparency across the range of the improvement activities underway. Police Scotland’s ‘Don’t be that guy’ campaign is an outstanding example of the thoughtful and challenging perspective Police Scotland can bring with clear internal and external impact.

I thought I would offer an indication of the wide range of Authority’s oversight across some of the issues raised within the report:

- The Authority’s People Committee is leading oversight of the efforts to strengthen learning, development and organisational culture and shape the policing workforce to ensure it is reflective of the communities it serves.
- Our Complaints and Conduct Committee is regularly monitoring Police Scotland’s professional standards performance and overseeing the progress of recommendations made by Dame Elish Angiolini, to improve the handling of complaints about the police. The Committee has also undertaken a more detailed look at complaint and conduct data where allegations of any sexual misconduct are involved.

CJ/S6/22/14/1

- The Policing Performance Committee is maintaining a focus on performance, trends in operational service delivery and progress towards the five strategic outcomes for policing. The Committee has also considered in more detail drug related deaths and data around hate crime, domestic abuse and violence against women and girls (VAWG).

Most recently, in relation to VAWG, the Authority has committed to convening a meeting with key stakeholders to inform the development of a bespoke Police Scotland VAWG strategy.

Lastly, I would highlight the work of the Equality, Diversity, Inclusion and Human Rights Independent Review Group chaired by Robin Iffla which is also playing an important role in informing Police Scotland's approach, providing third party progress assurance to the Authority and reviewing in detail the planned Police Scotland improvement activity.

I hope this letter offers some assurance on the oversight of the Authority and an indication of just some of the strands of work underway which align with the issues and actions contained in your plan.

Yours sincerely

MARTYN EVANS
Chair

CROWN OFFICE AND PROCURATOR FISCAL SERVICE

Dear Convener

I refer to the report published by the Committee on 10 January 2022 and I thank you once again for giving the Crown Office and Procurator Fiscal Service (COPFS) the opportunity to contribute to some of the sessions.

Throughout the Covid-19 pandemic, COPFS has worked with our criminal justice partners and the Scottish Government in the Recover, Renew, Transform (RRT) programme to operate courts safely during the pandemic restrictions, reduce backlogs and implement transformational reform as the pandemic recedes.

I have carefully considered the recommendations set out within the Committee's report and the Action Plan contained within Annex A and I would offer the following comments in relation to the recommendations on matters for which COPFS is operationally responsible.

Recommendation at paragraph 230: The Committee asks the Scottish Government, Police Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Courts and Tribunals Service, the Faculty of Advocates, and the Scottish Courts and Tribunals Service to provide details of the progress made to date on implementing Lady Dorrian's recommendations.

I would refer the Committee to the terms of the Lord Advocate's letter to the Convener dated 20 January 2022.

The Lord Advocate has confirmed her commitment to working with justice partners in relation to the implementation of the Lord Justice Clerk's review on improving the management of sexual offence cases, which will deliver significant improvements in relation to the prosecution of cases involving rape and other sexual offences.

A multi-agency Governance Group has now been established to oversee progress on the non-legislative recommendations arising from the Lord Justice Clerk's review and prosecutors will work with criminal justice partners to progress this work over the course of 2022. **Recommendation at paragraph 240: The Committee believes that it is important that all involved, particularly the accuser, are informed about the use of the Moorov doctrine when this occurs and, as a minimum requirement, we recommend that sheriffs and judges should ensure that juries understand the consequences of applying the doctrine and should explain to complainers why a jury and judge reached a particular outcome in these situations.**

In solemn proceedings it is the responsibility of the judge or sheriff to give the jury directions on the applicable law, including directions on the Moorov doctrine if relevant to the case.

In terms of liaison with a complainer prior to trial, prosecutors require to approach any discussion of the evidential basis of a case with care. Utmost in a prosecutor's mind will, rightly, be the need to avoid any suggestion that a discussion of the law prior to trial somehow tainted the evidence subsequently given at trial, which in turn gives rise to a risk to the integrity of the case, a risk that the complainer is exposed to difficult

cross examination on the matter, and a risk, ultimately, of acquittal. It is also undesirable for prosecutors to discuss hypothetical situations with complainers that may not in due course come to pass, for example the various possible verdicts a jury might return depending on the circumstances of the case, the number and complexity of the charges, and the number of complainers. Following the conclusion of proceedings, prosecutors are more than happy to explain the legal basis on which it was assessed that there was sufficient evidence to prove particular charges.

Recommendation at paragraph 241: The Committee asks Police Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Courts and Tribunals Service, and the Lord President, Lord Carloway, for details of how they address unacceptable behaviour and language and ensure that their workforces are meeting the needs of vulnerable and traumatised people. This should include: details of any codes of practice and ethics and how these are enforced; transparent complaints processes; and how recruitment processes have been adapted to attract a more diverse workforce that meets the culture, skills and principles of the organisations.

COPFS Values

Rules of conduct in COPFS are informed by two key values: "Being Professional" and "Showing Respect".

Showing respect in COPFS is about being open and sensitive to the needs and ideas of others, treating people fairly and welcoming diversity. Employees of COPFS are expected to go above and beyond the normal standards of behaviour, acting ethically, honestly and with integrity and treating people fairly and with dignity. All employees are expected to be familiar and abide by the tenets of both the Civil Service Code and internal policy on standards and conduct. Internal policy addresses the standard employees are expected to adhere in their jobs, the sanctions if conduct falls below those standards and the mechanisms which allow concerns to be raised safely and anonymously.

Diversity and inclusion

COPFS adheres to its own Recruitment Diversity and Inclusion Strategy, which ensures that we continue to promote equality of opportunity and treatment and to eliminate unfair discrimination in our employment practices. Our external recruitment is governed by the published Civil Service Commission Recruitment Principles whereby it is a legal requirement for selection for appointment into the Civil Service to be made on merit on the basis of fair and open competition. All three elements require be met for the appointment to be lawful. COPFS internal recruitment guidance is founded on best practice principles of fairness and merit.

Recruitment campaigns aim to target people of talent and experience from all walks of life, both at entry level and at higher levels. Recruitment panels are sensitive to diversity issues and are trained in how to avoid unconscious bias in recruitment. COPFS continues to ensure the use of blind selection at sift, removing names, gender or ethnicity; gender balance within selection panels; alternative formats for applicants when completing recruitment forms; raise awareness of participation in the Disability

Confident Employer Scheme and reasonable adjustments within the recruitment process, where appropriate.

COPFS' approach to attracting a more diverse workforce has led to increased representation of disabled people within our workforce (now at 5.5% up by 0.3% since 2020) and also increased numbers of employees from a black and minority ethnic background (now at 3.7% up by 0.5% since last year).

Our approach includes collaboration with our internal equality champions and staff networks to help COPFS review its recruitment strategies, including how we improve selection panel representation across the range of protected characteristics and our plan to share diverse employee stories to help highlight career progression opportunities to applicants. In addition to this, COPFS has removed the criteria for qualifications from our Modern Apprenticeship campaigns to widen the pool of potential applicants and provide those with alternative types of experience access to our administrative roles. COPFS has removed the requirement to list formal qualifications at application stage in order to remove the opportunity for unconscious bias, with any required qualifications confirmed post interview.

We are progressing discussions with the Civil Service Commissioners around utilising the Life Chances Scheme to provide opportunities for employment to those whose circumstances, previous life chances or social status has made it difficult for them to compete through our usual recruitment process. These discussions have been very positive and we are currently identifying suitable roles to allow us to take this further.

Complaint handling

Anyone who receives, requests or is directly affected by COPFS services can make a complaint, and this includes the representative of someone who is dissatisfied with our service. Details of the policy and the types of conduct and service that it covers are published on the COPFS website.

Professional Standards and Ethics

The role of the COPFS Professional Standards and Ethics Committee (PSEC) is to oversee all matters relating to criminal charges (primarily against employees but including charges against family and close friends of employees), malpractice, unethical behaviour, and security breaches. This is to ensure consistency, impartiality, and the maintenance of high levels of professionalism and ethical conduct on the part of all COPFS employees. This Committee is chaired by the Deputy Crown Agent Operational Support on my behalf.

The Deputy Crown Agent is also the point of contact for regulators within the legal sector such as the Law Society of Scotland and the Scottish Legal Complaints Commission.

Recommendation at paragraph 265: The Committee asks the Crown Office and Procurator Fiscal Service to review its administrative processes for those registering for the Victim Notification Scheme as a matter of priority to avoid retraumatising victims. This should include updating the registration process to enable people to understand the implications of signing up to the Scheme,

providing people with support, being flexible about when they can register and providing options for methods to keep people updated. An option might be for the COPFS to seek feedback from those who have previously registered to see how the system might be improved.

The role of COPFS in the administration of the Victim Notification Scheme (VNS) is limited to identification of eligible victims and thereafter the provision of application forms and associated guidance. Those who are eligible to join the scheme include: the person who experienced the crime; a parent or carer of a child victim under 12 years old; and up to four specified individuals in cases where the crime has resulted in a death or where the person who experienced the crime is incapable of registering.

COPFS is not responsible for the administration of the VNS which includes the registration process, support of individuals through the registration process, the timing of registration to the scheme nor any methods of update.

COPFS will work with partners and will contribute to the Scottish Government review of the VNS scheme which is referred to at the recommendation set out at paragraph 268 of the Committee's report. Further, I can confirm that COPFS will carry out a review of correspondence which is issued to victims and relevant persons about the VNS, to ensure that it is trauma informed and properly explains the implications of signing up to the scheme.

Recommendation at paragraph 270: The Committee asks the Crown Office and Procurator Fiscal Service, the Scottish Courts and Tribunal Service, Police Scotland and Social Work Scotland for their views on how the scheme for vulnerable witnesses is working. In particular, whether there are delays in offering this service to victims.

I would refer the Committee to the terms of the Lord Advocate's letter to the Convener dated 20 January 2022 regarding the Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019 (the 2019 Act).

During Parliament's consideration of the 2019 Act, the then Lord Advocate emphasised the importance of implementing the provisions of the Act incrementally in High Court and then Sheriff and Jury cases. This gradual implementation was, and remains, essential to ensure that the criminal justice system can adjust to a substantially different way of taking evidence from a large number of witnesses.

Since January 2020, the evidence of many child witnesses in High Court cases has been pre-recorded and, as a consequence, many child witnesses have not required to give evidence in court in the most serious cases. Confirmation of timescales for implementation of the 2019 Act in relation to Sheriff and Jury cases is awaited.

Recommendation at paragraph 307: The Committee asks the Crown Office and Procurator Fiscal Service and the Scottish Courts and Tribunal Service for details of their plans to implement and monitor the sentencing guideline to ensure it is applied consistently, whilst maintaining judicial discretion. The Committee would also appreciate details of the training and support that will be provided to prosecutors and sheriffs, and details of how outcomes, such as reducing re-offending rates, are to be captured.

CJ/S6/22/14/1

The application of sentencing guidelines in any given case is for the judiciary only. The limited role of the prosecutor in sentencing matters extends to the provision of factual information to the sentencer as well as a limited right of appeal where the sentence is considered to be wrong in law or unduly lenient.

I hope that the above information is of assistance to the Committee.

Yours sincerely
David Harvie
Crown Agent

CJ/S6/22/14/1

LORD ADVOCATE (LETTER ON NALOXONE)

Dear Convener,

Thank you for your letter dated 10 March 2022.

The Criminal Justice Committee have asked if the Crown Office and Procurator Fiscal Service agrees with the recommendation from the independent evaluation on the Police Service of Scotland's naloxone pilot that:

“Consideration should be given to issuing a written statement by Police Scotland, the Crown Office and PIRC with unambiguous information about any legal liability officers might (or might not) assume should they administer naloxone. For example, this could be a general statement on first aid and liability, since naloxone carries the same liability as first aid interventions such as giving CPR, i.e., if performed in good faith and in accordance with training, no claim will be investigated by PIRC or the Crown Office”.

With respect to the authors of the report I do not agree with this recommendation as I do not consider that such a statement is necessary. It is for the Police Service of Scotland through training and policies to provide comfort and confidence to officers in relation to their legal liability whether that is in relation to naloxone or the provision of CPR

I do not understand that the Police Service of Scotland intend to approach the Crown Office and Procurator Fiscal Service in relation to this recommendation either in relation to naloxone or a broader statement in relation to the provision of first aid in general.

Rt Hon Dorothy Bain QC
Lord Advocate

RAPE CRISIS SCOTLAND

Dear Convenor,

Violence against women and girls

Thank you very much for giving us the opportunity to provide further comment on the evidence received to date by the committee. We are grateful to the committee for its work on this important issue. We have made some brief additional comments below. In addition, I am attaching a letter from one of the survivors who attended the private evidence session with the committee on the 8th December 2021.

Court delays

As the committee has heard, delays in cases coming to court have been significantly exacerbated by covid. Delays are having a particularly traumatic impact on complainers of rape and sexual abuse. Complainers tell us that they feel unable to move on with their lives while the prospect of giving such distressing evidence is hanging over them.

The uncertainty about when they are giving evidence can be particularly upsetting. There are practical steps that can be taken to alleviate this situation, primarily through increasing the availability of evidence on commission. Enabling complainers to pre-record their evidence in advance of the trial would mean that at least they would not have the prospect of giving evidence hanging over them for an indefinite amount of time. It would also give certainty as to when they are giving this evidence. For this to happen, a significant investment would require to be made into both facilities and personnel to expand the availability of evidence on commission.

Visually recorded pilot

We appreciate the need to wait for further evidence to be available from the pilot prior to the national rollout however it would be useful to see a plan with allocated timescales for national roll out with key milestones, including the publication of the evaluation of the pilot, and associated costs which will be required to support a national roll out.

Implementation of the recommendations from Lady Dorrian's review of the management of sexual offences

Work has now started within the Scottish Government and key agencies on the implementation of this review. It would be helpful for the Criminal Justice Committee to be advised of and keep under scrutiny the timescales for implementation of key aspects of the review. One of the recommendations of the review is that all complainers of sexual crime should have access to dedicated advocacy support throughout the justice process. Survivors have described this support as lifesaving. Does the Scottish Government have a plan in place to extend the funding for the National Advocacy Project coordinated by Rape Crisis Scotland to enable all complainers of sexual crime to have access to advocacy support?

Access to legal advice for sexual offence complainers

One of the key issues which emerged from the private evidence session that the Committee held on the 8th December 2021 with rape survivors was how much survivors would have benefited from access to legal advice throughout the justice process. There is currently provision for legal advice and representation in relation to sensitive records being accessed as part of a criminal prosecution, and Lady Dorrian's review has recommended this should be extended to cover applications to introduce complainers' sexual history or character, but there are currently no plans to extend legal advice beyond this. Is the Scottish Government considering giving complainers of sexual crime access to state funded legal advice and representation to improve their sense of agency throughout the criminal justice process?

I would be happy to discuss any of the above issues further or provide any additional information which the committee may find useful.

Best wishes,

Sandy Brindley
Chief Executive

SURVIVOR

The purpose of this letter is to have one last go and try to convince you to make the changes outlined in Lady Dorian's report, support the abolishment of not proven, and tackle the current court backlog with pressing urgency,

I guess the first thing I would like to point out is that, while being asked to raise my concerns with you, I have been given a deadline. Whoever is reading this will likely agree that deadlines are important because they allow people to plan, progress, prioritize and move forward- in projects and life- they set expectations. They help us know what's coming.

Even the good stuff - dates, new jobs, driving tests, weddings, holiday countdowns, baby arrivals - they all make us feel something - leave our bodies in a certain state of emotion please try to imagine putting that on hold, your whole life - to try and achieve justice, for a crime that is supposed to, but doesn't appear to be - illegal.

In the current system - the people who need it most, are prioritized least and they are erased as human beings every step of the way. It's a system designed to 'protect' the accused and fail victims and that is palpable at every stage. This is not an accident and it is a human rights emergency.

The cost of justice is too high, and not even obtainable - even if you don't care about humans, look at it financially - why do both spend the way our country does, on an essentially legal crime? Even those who secure a conviction, in most cases - believe the cost (to their lives and wellbeing) was too high and none of what they had to endure was worth it in the end.

Waiting leaves victims in a permanent state of fight or flight, becoming less of ourselves every day, broken down while barely even being considered in the process. Building up to something that's always around the corner but never materializes. Our mental and physical state deteriorates over time and this set us up for the rest of our lives, and determines our future and how we survive.

The current justice system considers administrative deadlines important, but not those that people's lives are hinged upon.

I am taking the time to write this because I don't want others to have to suffer the way I have - I want the system that is put in place to protect victims to be designed in that way. Instead of its current format - protecting the accused at all costs (**we are the cost**).

Not a day goes by where I don't grieve for the versions of my life I lost and for the women currently trapped in your system, unlikely to even secure a conviction because rape is essentially decriminalized in our country.

For everyday women wait, they break a bit more and the less there will be left of them when it is finally over.

Please consider the above and tackle the current backlog like lives depend on it because they do.

The men and I note that they will be at least 90% male - who oppose any of these changes, especially the abolishment of the not proven verdict, are good at using few words to make complete logical sense - at first glance.

They will be more appealing, consistent, (seemingly) rational - and easier to listen to as this debate rolls on.

Because they are lawyers...

The survivors/victims are easy to dismiss as emotional and traumatized - because they are both of those things - they have had to rebuild their lives around the trauma of this system.

However, We/ They are only motivated by justice and the protection of others.

Please scratch the surface - the reasons for maintaining the not proven verdict or opposing any other changes must be critically and sceptically reviewed.

Question the motivation - do they have anything to lose if changes are made or the verdict is abolished? Money? Reputations? An ability to do their job? Past career achievements tarnished? Of course, every man has a right to be protected from a false accusation but all we want is justice, and fairness - people like myself have nothing to gain, and everything to lose.

If I were to call the police today because someone tried to break into my house, by smashing a window - the neighbours heard me screaming and we can all identify the man at the scene of the crime, His DNA is all over the house and, broken window. Would I lose years of my life, be judged, abandoned, put on trial, and treated as the guilty party - only for him to walk free... or would common sense and logic prevail?

This what I said when I came to meet with the justice committee:

I truly believe that everyone here thinks that they want to help end violence against women - but your inaction is violence against us.

For three years I have been watching you talk yourselves around in circles when urgency is required - you need clear steps and it's imperative that you start acting quickly and disgusting that you are not doing so now.

It breaks my heart to know you were doing the same thing while my life was going down the drain - but no one before then had chosen to do enough to help me and me and the others.

Think of all the people who are trapped in this system now, some of who are with us today - Unable to move forward, with knows how much Ill-treatment left to suffer and the likelihood it's all been for nothing.

The people who disagree with the changes required say that they need to protect the 'innocent until proven guilty' I put to you that to protect the accused the victims have been forgotten about, trodden, and mistreated at every step of the way.

The way that the system currently operates is violent - it's a violent lack of consideration and value for our lives - it shows us active contempt for women and complete protection for perpetrators.

I don't even remember being assaulted anymore - it's a memory of a memory - I'll never forget losing years of my life and what it could have been for no reason.

Not only is this an outdated and misogynistic system but it's a monumental f*ck up and a shame on Scotland.

Lives are being ruined and it's blatantly obvious they have barely been considered

This is an emergency and urgent and drastic reform is required.

We have seen how fast governments can act when urgency is required - why can't you do the same thing for women?

I would like you to tell me today what you suggest we do if I were to be assaulted again? Which let us be honest is highly likely?

Today is my last day working on this and these are the changes I want to see ...

- Time caps on going to trial with a one-year goal
- End Not Proven
- Video Evidence and removal of victims from court
- If court evidence continues, victims are to be given their own legal representation
- No Juries, to be replaced with specially trained members of the public or a 3-5 judge panel
- Specialist Courts
- Wrap around victim support from start to finish and serious financial commitment to this. including therapy, counselling, and mental health.

A Personal Request

Since the moment I left court, I have been fighting a battle I can't win and spending far too much of my time and energy trying to get anyone who can affect change - to do so.

The time has come for me to quit after 5-6 years and focus on the life I have had to fight for.

I believe that the last thing I need to move on is a copy of the court transcript from my trial which I have been trying to obtain for a long time - I have gone round in circles trying to find it and only once managed to speak to the correct department who told me I would have to pay £3000 - £4000 and they would send me the forms, I never received the forms and I don't have that amount of money. This is my life, I lost years of it over what was quite frankly a farce and I believe that I am entitled to a copy of the

documents that prove that. I am asking whoever sees this to show compassion and if there's any way at all that you can assist me in getting them it would mean everything to me.

Key traumatic factors

1. The man who assaulted me was from South Africa so I had to go on PREP (HIV prevention), which I took a bad reaction to and went a strange yellow/blue colour and could barely walk. To my knowledge, it was attempted rape so I spoke to everyone I could about coming off the medicine. My GP told me she had volunteered in South Africa where women are raped constantly and to get on with it because such reactions are common, and I did not want to risk HIV. The detective or someone else at the police station told me to stay on - if it came out I stopped it would discredit the case. The key point that stands out is that a simple test from him would have prevented this. His health status would not have to be made known, but I would not have to be given the toxic medication/suffer. He is already far more protected than me, I/my body is violated and collateral damage to this man's rights - a theme which continues throughout.
2. I meet with the PF to see if I am a good witness and she confirms the charge is rape, so I learn this way by an interview that I have been raped. I am told to expect **a year** for court.
3. I make all plans hinged on this, don't date till it's over, don't move away until it's over, just wait. It's ok it is a year I am focused.
4. Over a year later the preliminary hearing is set, he doesn't show up I am informed a warrant is out for his arrest, and to be vigilant and fear for my life
5. After chasing and chasing on my part for 6-9 months I find out he is known to have fled the country, how is this possible? Constant chasing for answers, none provided extradition process started but informed unlikely to come of anything - life still on hold but not scared for my life.
6. I spend one Christmas Eve desperately trying to get updates looking to the new year and wanting control over my life - no answers no ending - I decide that in Feb I will move to Australia.
7. I am phoned on the 3rd and informed he was arrested on New Year's Day - so he was back in the country and no one knew, how? I wasn't safe after all. I am told to prepare for court soon. I am told the judge had the option to keep him in jail but let him out WHY.
8. I am a nervous wreck waiting for fight or flight every day, but the court date isn't actually until September- I become more ill the closer it gets eventually being signed off work - the trial is cancelled the day before.
9. At some point, I am invited to meet the AD to ease my mind? He speaks to me like I am a child and keeps taking his wig on and off while saying 'wig on, wigs off...don't be scared. He tells me he is friends with the defence so not to worry, of course, this whole thing leaves me nothing but worried and I realized 2 things a) misogynist b) I am f*cked.

10. The trial finally starts November into December, I was I think 25 and now I am 29. As it builds up again, I am ill again, this time worse, back off work - getting sicker every day unsure if it will go ahead.
11. No one even warns me that i will bump into him at the RECEPTION of the court - and have to sit and wait in close proximity.
12. The defence started his case opening statement with repeat leading to not proven, he keeps telling the jury they have to be more sure about anything they have ever been sure of their life referring to degrees, their Brexit votes, and that tv show where you choose what county you live in?! Is this real?!
13. There is no clear defence they say I am "mistaken" despite there being witnesses and DNA on both of our genitals.
14. I am asked if I am sure and I note that I haven't destroyed years of my life over something I am not sure about - the defence sense yes we have BOTH had a long painful wait and this has been horrid for the accused to (this is ALLOWED) it is never mentioned he ran away overseas/was missing under warrant for around one year - how is this allowed - I feel sick
15. I find out that one of the delays was probably because there was a request for better DNA sample techniques which did happen and where successful and provided more DNA evidence (semen on me) it would have made things slightly better if I knew this was the cause of delay, but I was not important enough to be told.
16. The accused is given repeated access and advice to his lawyer through the trial I have none
17. They argue it just did not happen and the DNA could be because we touched the same door handle or wine bottle, then transfers while we are in the bathroom - I am willing the AD to comment that- if that's true all DNA is pointless because we are all covered in each other's DNA all the time - (remember the DNA is our genitals). This fact, if true would make all DNA evidence in crimes redundant - I willing the AD to point this out - he does not and I do not have the opportunity to remind him to do so - I am not entitled to do that
18. Defence closing statements are all about not proven, if they are not sure = not proven - more sure than anything ever in their lives.
19. The judge reminds the jury it doesn't matter how believable or personable I am.
20. The jury are given the option to convict to convict on rape or attempted - was I raped or not?
21. The jury is away for about 20-40 mins less time than it takes to get ready in the morning, three years for 20mins to decide not to proven.
22. It was all for nothing except ruining myself
23. I have spent the years since court doing this like this to stop it happening to other people -knowing everyone knew what was happening to me and doing nothing - nothing has been done, things are in fact worse
24. I am left with nothing, only trauma to show and no closure or trust in the world or faith in humanity

CJ/S6/22/14/1

25. There's lots more of course but I can't go on forever, justice does not exist as it stands, the law is being manipulated and this needs to stop.