



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Criminal Justice Committee

**Wednesday 21 December 2022**

**Session 6**



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**CRIMINAL JUSTICE COMMITTEE**

**33<sup>rd</sup> Meeting 2022, Session 6**

**CONVENER**

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

**DEPUTY CONVENER**

\*Russell Findlay (West Scotland) (Con)

**COMMITTEE MEMBERS**

\*Katy Clark (West Scotland) (Lab)

\*Jamie Greene (West Scotland) (Con)

\*Fulton MacGregor (Coatbridge and Chryston) (SNP)

\*Rona Mackay (Strathkelvin and Bearsden) (SNP)

\*Pauline McNeill (Glasgow) (Lab)

\*Collette Stevenson (East Kilbride) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Catriona Dalrymple (Scottish Government)

Kevin Stewart (Minister for Mental Wellbeing and Social Care)

**CLERK TO THE COMMITTEE**

Stephen Imrie

**LOCATION**

The David Livingstone Room (CR6)



# Scottish Parliament

## Criminal Justice Committee

Wednesday 21 December 2022

*[The Convener opened the meeting at 10:01]*

### National Care Service (Scotland) Bill: Stage 1

**The Convener (Audrey Nicoll):** Good morning, and welcome to the 33rd and final meeting in 2022 of the Criminal Justice Committee. There are no apologies this morning. Our final agenda item, under which the committee was due to consider its action plan, will be rescheduled to a future meeting.

Our first agenda item is an oral evidence session on the criminal justice provisions in the National Care Service (Scotland) Bill. Members will recall that, on 23 November, we heard from a panel of witnesses on the possible transfer of justice social work services from local government to the proposed national care service. Today, we will conclude our consideration by hearing from the Scottish Government.

I welcome Kevin Stewart, the Minister for Mental Wellbeing and Social Care; Anna Kynaston, deputy director, national care service; and Catriona Dalrymple, deputy director, community justice.

I refer members to papers 1 and 2. I intend to allow about 60 minutes for the evidence session. I invite the minister to make a short opening statement, then we will move straight on to questions.

**The Minister for Mental Wellbeing and Social Care (Kevin Stewart):** Good morning, and thank you for having me along today to give evidence.

It is fair to say that the national care service is one of the most ambitious reforms of public services. It will end the postcode lottery of care provision in Scotland and ensure that those who need it have access to consistent and high-quality care and support to enable them to live a full life, wherever they are.

People with experience of receiving social care support, and providing it, have been clear that there is an urgent need for change. The bill sets out a framework for the changes that we want to make and allows scope for further decisions to be made. That flexibility will enable the NCS to develop, adapt and respond to specific circumstances over time.

The principles of any new system will be person centred, with human rights at the very heart of social work and support. No decision has been made yet on whether justice social work will be included in the national care service, but we are making provision to enable that and we are considering what the best approach would be.

I acknowledge that, unlike care, justice social work has the unique feature of being court ordered, placing requirements on those in contact with the service and adding different practical considerations. To fully support those involved in the justice system, a holistic approach that recognises the links between offending and other care and support needs is required, whether justice social work is included in the NCS or not.

The work in progress will collate evidence, work with partners to develop options for the future of justice and include a public consultation at the end of 2023, which is a result of the feedback from stakeholders in the consultation. Justice social work staff and people with lived experience will be central to our programme of work.

The NCS will bring changes that will benefit the workforce, too. The importance of staff in the social work and social care sector has never been clearer, and we are fully committed to improving their experience as we recognise and value the work that they do.

We are committed to co-designing and working with people with first-hand experience of accessing and delivering social work and social care to ensure that we have a person-centred national care service that best fits the needs of the people who will use and work in its services, with human rights at its very centre.

**The Convener:** We move to questions, and I will start. Minister, you acknowledged in your opening statement the specific role that justice social work has in our courts, among other settings. With that in mind, you will be aware of the forthcoming Bail and Release from Custody (Scotland) Bill, which the committee is beginning to consider. It includes a provision whereby justice social work would have a greater role in providing courts with information to inform decisions on bail. To date, the oral and written evidence that we have taken from witnesses suggests, perhaps not surprisingly, that that would potentially require greater resource for justice social work.

Will you outline your view on what the optimum model for justice social work would be, bearing in mind that we are at a very early stage? Would the best model be for it to remain within local authorities or to move to a care service setting?

**Kevin Stewart:** That is a very pertinent question. I am not a great expert on the Bail and

Release from Custody (Scotland) Bill, but I will give some detail on that in this answer.

As I said earlier, no decision has been taken on whether criminal justice social work will be in or out of the national care service. The Cabinet will take a decision on that at a later point, after all the work that we are doing is complete. Whether it is in or out, there have to be connections, and we have to make sure that those connections are right and that all this works for people.

Some of the scrutiny of the bill has been about structure, but, no matter what, we are all striving to achieve good outcomes for people. No matter whether justice social work is in or out of the national care service, we have to make sure that those connections are right.

As the committee will be aware, the Bail and Release from Custody (Scotland) Bill is in three parts and focuses on two separate stages of the criminal justice system in Scotland. Part 1 focuses on how custody is used as part of bail and remand decision making in Scottish courts, and it will, among other matters, reform the legal framework within which courts make decisions on individual cases in regard to the use of bail and remand as part of the criminal court process.

Part 2 focuses on how certain release-from-prison custody mechanisms operate, with an emphasis on increasing opportunities for improved reintegration of people leaving prison and improving the support that is provided to them on release in order to reduce the risk of reoffending. The bill also makes provision to provide information on prisoner release to victims support organisations and introduces a permanent power of executive release in emergency situations.

Part 1, which covers some of the areas that the convener describes in her question, is split into four distinct areas. The one that the committee is most interested in this morning is the enhanced role for justice social work and the provision of information to the court. It also covers reform to the legal framework within which bailiff decisions are made, the recording of reasons when bail is refused and how periods of electronically monitored bail conditions affect time served for custodial sentences.

The main thrust of the question, and the main issue that we are looking at today, is the enhanced role for justice social work in the provision of information to the court. The bill has, of course, taken account of the additional work and resource that will be required. The enhanced role will be beneficial, but we must also ensure that the enhanced role for criminal justice social workers matches some of the other roles that social workers have in wider community settings.

Let me give the committee an example—because it is always best to do that—of something that shows that we sometimes have not got the linkages quite right, and why linkages have to be better. The committee will be aware that my officials and I have been talking to a huge number of folk and listening to the voices of those with lived experience about their feelings about social work and social care and support. One of the folk who we listened to was a young guy who is at risk of offending and who has 15 different interventions going on at the moment. Those are not necessarily linked and, based on what that young man told us, it is fair to say that he sometimes feels that he is being pulled from pillar to post and that he does not really know who to trust when he receives advice. No matter whether justice social work is in or out of the national care service, we have to get better outcomes for people who are in situations of that type.

We have a job of work to do to create much better linkages between criminal justice social work, children and family social work, care, support and other areas to get it right for individuals. That is why we are embarking on research and data gathering and, most importantly, listening to the voices of those with lived experiences.

**The Convener:** That was a very comprehensive response, and you covered a lot in it. Following on from that, I refer to the written submission that we received from Claire Wilson, who is the chief social worker at Aberdeen City Council. In answer to a question about whether it would be better to address issues in the system before introducing a new level of management through a care service model, she said:

“What would be beneficial is to pause the Bill in terms of justice to enable a review of the current system, co-design a new one and then a careful transition over to the NCS once the social care part is set up and arrangements in place.”

Bearing in mind that we have the Bail and Release from Custody (Scotland) Bill coming down the track, as you have alluded to, and the potential increase in workload that that will bring to justice social work, I am interested in your thoughts about the suggestion that Ms Wilson made in her written submission.

**Kevin Stewart:** As I have outlined already, the establishment of the national care service will have an impact on community justice partners whether or not justice social work is included in the NCS and the national social work agency. That reflects the fact that many community justice partners rely on effective communication and collaboration with other partners across health and social care.

10:15

I canna reiterate enough that community justice partners are actively involved in the work that we are doing to inform a decision about justice social work. That work and their involvement with it will make it certain that the options appraisal will fully consider the implications and opportunities for improvements across community justice and justice social work. Before the establishment of a national care service, and whether justice social work is included in that service or not, we will continue to look to make improvements because we must get the linkages absolutely right.

There have been a number of calls for the National Care Service (Scotland) Bill, or elements of it, to be paused. However, as I said to the Health, Social Care and Sport Committee yesterday, many people want to see all this moving at pace. I have to strike the right balance with what we are doing, and I think that it is about right. Derek Feeley, the chair of the independent review into adult social care who recommended that we establish a national social work agency, has said that the work should move at pace. Many other stakeholders, particularly the voices of lived experience, want all this to have happened yesterday.

I understand some people's feelings about the pace of change, but pausing the bill will not stop the work that we need to do to ensure that we get the best outcomes for people. As far as I am concerned, a national care service is the best way forward.

**The Convener:** Thank you, minister. We move to members' questions.

**Katy Clark (West Scotland) (Lab):** Good morning, minister.

The Feeley review focused on adult social care. Where did the idea come from of bringing wider social work functions into the national care service?

**Kevin Stewart:** Derek Feeley concentrated on adult social care in his review, but he also made recommendations about a national social work agency. When we listened to people initially, we found that many folks felt that bringing only adult social care into the national care service could lead to difficulties around transition points and cause problems with linkages, as I have outlined. That is why we consulted about bringing other things into the national care service.

Derek Feeley's report looked at adult social care in depth, but, if we are to bring community justice and children's services into the national care service, we recognise that we need to have the evidence base to do that. That is why we are carrying out the research and the options

appraisal and, most importantly, why we are listening to stakeholders to establish whether those services should be included in the national care service. As I have already explained to the convener, whether that happens or not, we have to make sure that the linkages are right. The work that we are doing will be of benefit no matter whether the services are in or out of the national care service.

**Katy Clark:** I appreciate that the Government consultation mentioned that; however, it is quite clear from speaking to social workers and others who are involved in the sector that they feel that there has not been a full and proper consultation. Why was a full consultation not carried out with social workers, people who have lived experience and others before the bill was brought before the Parliament? Do you not think that there is a need for a full consultation to be carried out before the Parliament considers the issue?

**Kevin Stewart:** We have said that we will consult on the issues in question after the research and the options appraisal have been carried out and we have listened to stakeholders. We have committed to doing that.

I say to Ms Clark and to others on the committee that we did not suddenly pluck this out of the air and decide that all this should be in the national care service. We listened to the voices of people with lived experience and to their views and thinking on what they wanted the national care service to deliver.

You are right to say that some stakeholders have said that the evidence base for bringing criminal justice social work and children's services into the national care service is not as great as the evidence base from the independent review of adult social care that Derek Feeley carried out and made recommendations on. However, in that review, Derek Feeley pointed out the importance of linkages. That is why we are conducting all the work that we are doing at the moment. We have not made a decision about whether children's services will be in or out of the national care service because we want to have the evidence base and we want to listen to stakeholders.

I will give an example of how stakeholders are involved in informing that decision. Officials have established a reference group that meets regularly to inform and support the programme of work. The stakeholders on that group include the Convention of Scottish Local Authorities, Community Justice Scotland, the Scottish Association of Social Work, Social Work Scotland, the Risk Management Authority, the victims organisation collaboration forum Scotland, the office of the chief social work adviser and the Care Inspectorate. Those research partners will work directly with justice social work staff and their clients to obtain insight

into how policies work or do not work, as the case may be, on the ground. In addition, the options appraisal process will include officials making visits to stakeholders around Scotland to ensure that the workforce and people with lived experience have opportunities to participate.

I have made a clear commitment to listen to the voices of lived experience and to ensure that stakeholders are involved. We will continue to listen all the way through until we make the decision one way or t'other. However, I reiterate the point that, no matter whether the services that we are talking about are in or out of the national care service, we must ensure that the linkages are better for people.

**Katy Clark:** Given that the Government has a parliamentary majority in the Parliament, will the bill be passed, if the Government parties vote it through, before decisions have been made about whether the national care service will include social work?

**Kevin Stewart:** As Ms Clark knows, the bill is a framework bill, which includes provision to move criminal justice social work and children's services into the national care service if the Parliament agrees to that.

**Katy Clark:** So there would not be scrutiny of that decision by the Parliament.

**Kevin Stewart:** I expect there to be scrutiny all the way through the process. I have said to numerous committees, and I say to this committee, that we want to be open and transparent about all this. If a decision is taken to move criminal justice social work or children's services into the national care service, of course there will be scrutiny—there will be scrutiny of the secondary legislation.

As we move forward, we will convey our decisions to the Parliament and to committees for full scrutiny. As I have said to this committee and others, my door is open on all this, because I want to ensure that we get the national care service right for the people of Scotland.

**Katy Clark:** So you are saying that delegated legislation will come to this committee.

**The Convener:** Was that a question or a comment?

**Katy Clark:** I understood that that is what the minister said—he said that delegated legislation would come to the Parliament. I presume that that means that it would come to this committee. Regardless of whether it is this committee or another committee that considers it, there will be delegated legislation.

**Kevin Stewart:** It might be helpful if I quote from the policy memorandum. The bill comes with

a suite of other documents, and I am not sure that everyone has looked at those. It says:

“Section 30 of the Bill requires the Scottish Ministers to consult publicly about any proposed transfer relating to justice services using the enabling power before regulations are brought forward. When laying draft regulations to transfer JSW functions, the Scottish Ministers must also lay before Parliament a summary of the process by which they consulted in relation to the function transfer and the responses they received to that consultation.”

**Katy Clark:** That is slightly different from delegated legislation coming to the Parliament—whether to this committee or another—so that there is an opportunity to scrutinise and vote on that delegated legislation. Will you give an undertaking that you will bring delegated legislation?

**The Convener:** I am happy for the minister to respond to the question, but I am keen to keep questions on track. We were asking about the potential transfer of justice social work into the national care service.

**Katy Clark:** I had not planned to ask about this. I am pursuing the point because of what the minister said. It might be something that we can pursue at a later date.

**Kevin Stewart:** We do not have anyone here from the Scottish Government legal directorate. I will write to the committee to outline all the processes, most of which are outlined in the policy memorandum. The committee will be glad to hear that I am not going to read out the entire policy memorandum. I will outline in writing how that process will work. I say to Ms Clark and to others that I am more than happy to continue to have an open-door policy and to listen to and consider what folk have to say about the issues.

**The Convener:** Thank you. I bring in Fulton MacGregor, to be followed by Russell Findlay.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I hope that you are not too tired after last night, minister.

**Kevin Stewart:** We are probably all just a bit jaded this morning.

**Fulton MacGregor:** My question follows on from Katy Clark's line of questioning and from something that you said earlier in response to the convener. You said that the Cabinet will decide at some point whether justice social work services will move over to the national care service. I want to clarify something that you might have already answered. Were you talking about a decision to move services over or a decision to consult on that?

**Kevin Stewart:** As I have said, we will consult. I reiterate the point that I just made about consultation and what I read from paragraph 142



of the policy memorandum. Section 30 of the bill requires us to consult publicly about transferring any services, including justice services, using the enabling power. We will consult. We have set that out quite clearly.

**Fulton MacGregor:** Thank you for clarifying that. You will know that that is not a particularly popular idea in the areas of justice and of children and families—I am talking about those two areas and not about adult social work. People want the Government to take them along.

If the Government and Cabinet have decided that that transfer is a good idea but the consultation gets a load of responses that are not in favour of it, how much will that weigh on the final decision about the legislation?

**Kevin Stewart:** The Government will, as always, look at the consultation responses. Mr MacGregor said that some of the proposals are not popular. I say to him that, in a lot of the conversations that I have had with folk out there, there is popular support for change. I have done a fair amount of talking to front-line social workers. Mr MacGregor has seen me being questioned by folks in the cross-party group on social work.

10:30

Many front-line social workers see all this as an opportunity, because they want more freedom and autonomy for the front line and they want the spirit of the Social Work (Scotland) Act 1968 to come into play. At the moment, many of them feel that they are bound by eligibility criteria and by budgets, rather than being able to make the right decisions when it comes to preventative support.

I say to Fulton MacGregor that, although some stakeholders out there do not necessarily favour the proposals, a lot of folk on the front line do favour them. To Mr MacGregor and to the committee as a whole, I say that, as always, we will analyse and look at the consultation responses, and act accordingly.

**Fulton MacGregor:** I appreciated your attendance at that cross-party group meeting. A lot of the social work front-line staff who spoke at it were from adult care services. Having worked in that area, I have spoken to a lot of justice and children and families social workers over the past wee while, and I have found that there is trepidation. However, that is nothing new. As we have spoken about in this committee, the issue of justice social work coming into the health service was raised a long time ago—it was not popular at that time and was resisted. I just wanted to put that out there.

**Kevin Stewart:** I recognise that, sometimes, folks are wary of change; however, others see

opportunity. The Cabinet decision will be taken on the basis of evidence that is collated by the sector. I was clear at the cross-party group on social work and I will be clear with the committee today that the social work profession should be—needs to be—at the heart of shaping the future. We need to listen to the profession. That is what I have committed to doing, and it is why I have made all the appearances and visits that I have made: to listen to what folks have to say.

**Fulton MacGregor:** Thanks, minister. I do not doubt your commitment. For the record, we very much have to have an open discussion about doing that, because it might be the best way.

That brings me on to my final line of questioning, which is about what the benefits might be of those services going over, and how they might go over. In the document, justice and children's services are two very separate things. However, just now, they work very closely together. Is it the Government's intention that both would go over, or is it possible that children and families would go over but not justice? What are the thoughts around that? Do they both need to go or not to go?

**Kevin Stewart:** They do not both need to go.

I will give another example. There has been a lot of discussion at committee about what should be left out of all this. Other things will not be in the NCS but have very clear connections to it. At the Social Justice and Social Security Committee the other week, there was argument from some that housing and homelessness should be in. The Government has not put forward such a proposal. However, we know that there are very clear connections between care, social work and housing—the list goes on.

In that regard, we are ensuring that, whatever is out and whatever is in, the NCS has a clear connection with housing and homelessness. Committee members will understand that, because of my previous role, I have a real desire—it is a necessity—to ensure that all that is absolutely spot-on right. No matter what is out and what is in, those connections must be there.

It is not the case that both justice and children's services have to go in or stay out.

**Fulton MacGregor:** It is good to have that clarified, and it brings me to my final question about the important linkages that you have talked about. I welcome the fact that justice and children's care services are in the same bit of the bill, because the linkages between them are really important—probably more so than the linkages between justice and adult services.

You have brought me on to the housing issue. That obviously will not be coming over to the

national care service, because a massive link between it and justice is required and it is probably one of the biggest areas of concern that we hear about. However, the minister has answered what I was going to ask. I was going to ask him whether he had thought about how housing services and other local authority services would work with the national care service, and he has answered by saying that there would be strong links.

**Kevin Stewart:** Absolutely. I and my officials have spent a fair amount of time looking at the linkages and listening to the voices of lived experience and stakeholders. I am in regular discussion with Shona Robison on housing and homelessness, and I have had a number of meetings to listen to housing and homelessness stakeholders, as members can imagine. As the former chair of the homelessness prevention and strategy group, that is incumbent on me.

We need to build on some of the good work that we have done in the past on the linkages. As the committee is aware, I introduced the housing first approach, which is a person-centred approach to ensuring that people are housed appropriately and that all the other services come into play around about them. As I said yesterday, I do not have the most up-to-date figures—I should have looked them up last night, but we were busy with other things—but I know that the tenancy retainment rate under the housing first approach has been around 90 per cent, which nobody expected. Why is that? It is because we ensure that housing, social work, health, social care, addiction services and other services work together so that a person-centred approach is taken. If we can do it for housing, we can do it in other areas and ensure that the linkages are right.

Beyond that, legislation is proposed that will cover the public duty to prevent homelessness and get it right for people, which will also be beneficial in ensuring that the linkages become the norm.

**Fulton MacGregor:** I am sorry if I took a bit longer than I should have, convener.

**The Convener:** That is fine. Your points were all relevant.

We have 20 to 25 minutes left. I will bring in Russell Findlay to be followed by Jamie Greene.

**Russell Findlay (West Scotland) (Con):** I will be brief. The fundamental question from our perspective is whether criminal justice social work will be in or out of the proposed new national care service. You do not know the answer to that, but can you indicate what you think is most likely?

**Kevin Stewart:** It would be wrong of me to sit here and say that we are doing all the research and options appraisals and listening to

stakeholders and voices of lived experience, and then say what I think at this moment. What I will do, as I have done with all the work that we have done, is listen to people and look at the evidence. That will guide our decision making.

**Russell Findlay:** Is the civil service working on both potential scenarios?

**Kevin Stewart:** Yes, of course. As I said to the committee earlier, no matter whether they are in or out, we have to ensure that all this gels together. The work is being done to make sure that we get this right for people.

**Russell Findlay:** Do you have any notion of timescale and when we might know?

**Kevin Stewart:** I will go through the information on what will come into play with regard to supporting the decision. We commissioned the external research to understand the strengths and weaknesses of practice and where improvements can be made. That research is being procured and it will go alongside a literature review. We will actively gather views from stakeholders, including staff and those with lived experience.

The options appraisal will bring stakeholders together to further co-design and analyse different options, which will result in understanding of the desirability and viability of each option. That will help to inform an in-principle decision in autumn 2023. The final phase is the 12-week public consultation to seek views on the proposed approach. That will commence in late 2023, and it will inform a final decision in around April 2024.

**Russell Findlay:** When is the procurement process due to conclude?

**Kevin Stewart:** I will bring in Ms Dalrymple.

**Catriona Dalrymple (Scottish Government):** The procurement tender was awarded this week, and we expect that work to commence in January.

**Russell Findlay:** Has it been awarded to a private organisation?

**Catriona Dalrymple:** I am afraid that I cannot provide any details at this stage, because the process is still confidential, as I understand it.

**Kevin Stewart:** Once that confidentiality is out of the way, we will write to the committee to let you know.

**Russell Findlay:** However, going by the timescales, if everything goes to plan, it will be 14 months from now before we know whether criminal justice social work will be in or out of the national care service.

**Kevin Stewart:** That is what I have just said to the committee.

**Russell Findlay:** That is what I was trying to establish. Thank you.

**Jamie Greene (West Scotland) (Con):** Good morning. Minister, did you follow the evidence session that the committee held on 23 November?

**Kevin Stewart:** I have followed many of the evidence sessions. I will be honest with the committee and say that I have not watched all the sessions, but I have had transcripts and summaries, as the committee would imagine. That is my bedtime reading, Mr Greene.

**Jamie Greene:** I am sure that you look forward to it. I commend to you watching the video of that evidence session. I went into the meeting with a very open mind, but, having sat through the evidence from Social Work Scotland, COSLA, Unison and members of health and social care partnerships, it was difficult to come away with any sense of positivity about the potential inclusion of community justice in the proposed national care service. A number of criticisms were made about consultation prior to the publication of the bill, which I do not think have been addressed, and a number of valid concerns were raised about the structure of what any such integration might look like, particularly around people, funding, structures, leadership and so on. I appreciate that you have not watched that evidence session, but, without having seen it, I am sure that you will understand what some of those criticisms might be. Will you respond to them?

**Kevin Stewart:** All committees have heard some criticisms. Some of those views have come from critical friends. Other people, of course, do not want change. I think that it is fair to say that. However, change is required in relation to a national care service. We cannot continue in the same vein. We have changing demographics and we have a postcode lottery of care in Scotland, which is not good enough. I have to say that the lack of voices of lived experience in some of the committee evidence sessions is frustrating. The voices of those folks who are in receipt of social work and social care help and support are the ones that we need to listen to, because they will rightly point out where the system does not work for them.

10:45

We have been on a 20-year journey of health and social care integration; there have been improvements, but there are still implementation gaps. One reason why there are implementation gaps is that we have not listened to people, and we have not let people help us to shape services.

I recognise that some folk do not want this change, but, if you listen to the voices of lived experience, you will hear that many of them are

hungry for change. They want rid of the postcode lotteries, and they want those implementation gaps to be plugged and a system that works for them.

I come back to the point that I made to the convener on the system not working for some folk, and I come back to that lad who I talked about earlier who was at risk of offending—he has 15 interventions going on, but it seems that the system does not work for him.

**Jamie Greene:** The question is, though, how do you resolve those issues? The question that faces us all is whether there should be a centralised approach of removing power, authority and, probably, funding from the current structure in which services are delivered locally by local authorities through ring-fenced grant budgets from the Scottish Government and giving it to some form of nationalised service. We need to consider the implications of that.

It is still very unclear where the money will flow from, where it will be diverted to and which cohort of people will deliver the service. You talk a lot about lived experience, but I get the impression that we are not listening to the lived experience of front-line social workers, who are telling us, and have given us evidence that, to quote one Aberdeen city health and social care partnership, “it is leadership not structure that is the most important.”

COSLA is concerned that removing justice social work from local authority responsibility will impede multi-agency working with other local authorities. A local approach is the best one, because those services are best managed and delivered locally.

There is a concern that nationalisation will result in, effectively, a privatisation of the service, whereby work that is currently being done by people who are paid and employed by the public sector will be outsourced through a national procurement process to a third party—perhaps a commercial or private one. Is that a genuine risk?

**Kevin Stewart:** No. There will be no privatisation of those services. Mr Greene talked of centralisation, and I say to him that the national care service will balance the need for local flexibility by having care boards plan and commission care while providing national consistency through ministers being ultimately accountable.

Why have we moved in that direction? It is because people have told us that they want ministerial accountability. Accountability has been a high priority in the discussions that have been had. You can see from the Feeley review and other work that folks do not feel that people are necessarily as accountable as they should be for the delivery of services.

Quite frankly, people cannot believe that I am not accountable for the delivery of social work and social care services in Scotland at this moment. Folk around this table have written to me to intervene in social work and social care situations in their area, which I cannot do, because that is dealt with by other autonomous bodies.

The public has been clear; more than 72 per cent of respondents to the consultation want ministerial accountability. They also want local accountability to be strengthened, which we will achieve. It is not centralisation; it is about national accountability and setting national high-quality standards that should be applied across the board to ensure that postcode lotteries disappear. It is also about local delivery, local flexibility, local innovation and local accountability.

**Jamie Greene:** I am all for ministerial accountability, but that does not address any of the practical questions that have been put to the committee to which we do not have answers. It seems that no one has answers to practical questions such as whether all the social workers who are currently employed by local authorities will be transferred, under the Transfer of Undertakings (Protection of Employment) Regulations, to some form of other Government agency. All those things remain known unknowns.

Given that we have issues with retention and churn in the social work sector and massive problems with resource to deliver local services, it is unclear how any of what you describe will address the clear current shortfalls.

Before you come on to that point, I will respond to the financial issues regarding the bill. At the end of the day, in all this, money talks. You will be acutely aware of what I think was a highly critical, and unanimous, report from the Finance and Public Administration Committee on the weakness of the financial memorandum to the NCS bill.

Will the money follow from the current status quo of grant funding to local authorities and be redistributed to another agency or body, or will it continue to flow as is, with—as you said—only the lines of accountability changing?

**Kevin Stewart:** I will answer those points, starting with the point about “churn”, as Mr Greene put it. I agree that there is a lot of churn in social work. I point out—without naming authorities, because it would be a little bit naughty of me to do so—that we know that there are folks who leave one authority to go to another because pay and conditions in the other authority are much better. That causes grief. It means that there are difficulties with recruitment and retention in some parts of the country, because other local authorities pay much more or the conditions there are better. We need to ensure that there is some

kind of uniformity, and an improvement, in pay and conditions. I cannot do that at present, because it is not a matter for me.

With regard to the transfer of staff, it is by no means a foregone conclusion that local authorities' staff, for example, will need to transfer their employment. The Government's position remains that new local care boards will work collaboratively in partnership with the national health service, local authorities and the third and independent sectors to improve support locally and nationally.

As I have said, we will have the discussion around that with social workers and their professional bodies, and others, as we move forward. However, there is an opportunity for improvement, not only in pay and conditions but in getting career progression right. One of the things that I have been told by care workers, and by social workers, too, is that opportunities for career progression are often not there. We need to do better on that front, for the simple reason that we need to attract more folks into those professions. For young people in particular, a number of whom I have talked to, as you can imagine, while pay and conditions are way up there, career progression, education and continuous professional development are also high on their agenda. We need to get better at that, too, and we have the opportunity to do so.

**Jamie Greene:** And stress—there is a huge amount of stress.

**Kevin Stewart:** Absolutely. If we look at some of the survey work that the professional bodies have carried out, we see that some of that stress is caused by the fact that folk feel bound by budgets and eligibility criteria.

I come back to my earlier points about creating freedom and autonomy; being person centred in providing support; and changing the current situation, in which there is a huge amount of spend on crisis, by moving to prevention. That reduces not only the cost to the public purse but the human cost.

I think that a lot of the stress that is felt—I am sure that the committee has heard this from front-line social workers, too—is because folk do not feel that they are able to put in the right help and support at the right time. That is what we need to change.

**Jamie Greene:** Thank you. I appreciate that other members want to ask questions, convener.

**The Convener:** I will bring in Pauline McNeill, followed by Collette Stevenson. I remind members that we are coming up to five minutes to the hour. I am happy to extend the session to around 10 past 11, but we have four members to come in, so I ask for questions and answers to be fairly succinct.

**Pauline McNeill (Glasgow) (Lab):** Good morning, minister. I thank you for your answers so far—I hear clearly what you are saying: this is work in progress, there is consultation and you are treading carefully and working on the basis of recommendations. That is very welcome.

I want to follow up on a question from Katy Clark, which is quite important—in my view, anyway. At some point, we will decide on the general principles of the bill and the framework that you have outlined, with a duty to consult. If we vote in favour of the general principles of the bill, what are we voting for? We are voting simply so that the Government can consult, but ultimately we could be voting for the principle of including the proposed national social work agency in the national care service. That would be my worry about voting for the general principles, although I support the ideas behind the bill.

**Kevin Stewart:** You would be voting for the framework bill and the general principles of the bill. As I have said to other committees, the framework bill scenario was the way in which the national health service was established. Other aspects were then slotted into that to fulfil its creation.

You would be voting for the general principles of the framework bill, but that is not the end of all this, as I have said. We will continue to speak to and listen to stakeholders and the voices of lived experience, and of course to committees and the Parliament, as we move forward in our decision making around those moves and possible secondary legislation.

**Pauline McNeill:** You said in answer to Jamie Greene that some front-line social workers were in favour of the bill. It is important to note that, and I will certainly be looking at it from that point of view.

You might not be able to answer this question now, but I wonder if you might write to the committee on it. I remember that there was a proposal under the previous Labour Administration that looked a bit similar to the one that we are discussing. I mention that because, at the time, there was uproar from the criminal justice and social work sectors, and the proposal never got off the ground because of the deep opposition to the centralisation that would have been involved.

I acknowledge that there might be a different context for this proposal, because it is in the context of the national care service. However, for accuracy, I would like to know whether there are any similarities. Perhaps your officials could dig into that a wee bit.

The other reason that I ask that question relates to your answer to Katy Clark's question about where the proposal came from. I would have thought that, although it was a recommendation, your natural instincts might have been not to go

with it, because it is controversial, even though you might work it out at the end of the day.

I am not expecting an answer on that now, but I wonder whether you might give me an answer at some point.

**Kevin Stewart:** I do not know the history of the previous proposal, but I am quite happy to go and look at that. I might be able to fit in that reading over the Christmas and new year holidays.

**Pauline McNeill:** Sorry.

**Kevin Stewart:** We will have a look at that, and I will write to the committee on certain aspects.

For some folk, some of the proposals that we are putting forward are controversial. However, the key point in all this is that we listen to the voices of lived experience. Those voices are the primary motivation for me getting up in the morning and doing this work, because they know what works for them and what does not.

It might well be that something was controversial a decade or more ago, and now it has its day. That is the way that the world works at points, is it not?

11:00

I think that social work, including criminal justice social work, has changed dramatically since the previous Administration was in power. It is only 10 years since I left local government, and I have seen massive changes in social work and criminal justice social work since then. Some folk would say that some of that change is for the good, while others would say that it has been for the bad.

I referred to front-line social workers talking about eligibility criteria and budgets. It is fair to say that many front-line social workers feel that social work has lost its voice at the moment, in particular in certain parts of the country. Again, that needs to be addressed.

I promise Ms McNeill that I will look back at the history of that over the holidays—I am nothing if I am not an anorak—and we will respond as best we can to the question about whether there are similarities.

**Pauline McNeill:** I really appreciate that answer. For the record, I did not have a strong view for or against that proposal at the time, and I do not have a strong view now. I simply note that it was quite controversial, although I take your point that things have moved on. Thank you for your answer.

**Collette Stevenson (East Kilbride) (SNP):** Good morning, minister. I have a couple of questions. You talked about how we need consistency in taking the bill forward, with regard

to including children and families and criminal justice in the NCS. However, from the evidence that we have taken, and even from my own experience of working with children's care homes, it seems that there is a deep mistrust of social workers from the people with lived experience who are going through the social care system. That was picked up on in an evidence session that we held a couple of weeks back, when we were looking at the Bail and Release from Custody (Scotland) Bill.

With regard to reform and changing the culture, would you perhaps even think about changing the term "social worker"? There is a big stigma attached to that. When I was a councillor in South Lanarkshire Council, somebody had the title of "home maker", which is quite old-fashioned. A lot of care-experienced kids whom I worked with in the care system had a really deep mistrust of social workers.

**Kevin Stewart:** I could probably get myself into a lot of trouble if I tried to redefine the names of folks' roles at this moment in time. Nevertheless, I am not averse to having such conversations. I get where Ms Stevenson is coming from with regard to some folks mistrusting social workers, but I also have to say that I have seen some very good examples of trust being formed between social workers and the folks whom they support.

I think that the element of mistrust often comes into play because a social worker has come in at a point of crisis rather than prevention. That is why we are currently looking at a number of changes on that front, and we will do further tests of change to see how we can improve things further.

A couple of months back, I met folks from Fife—I intend to visit again, but we have not managed to slot that in yet—who currently have a pilot going on in two areas there. They have given social workers a clean sheet to do what is required to achieve good outcomes for people—obviously within reason, but it is basically a blank sheet.

The pilot is at the very early stages, but it already seems to be having positive impacts on people because social workers have been freed up and have autonomy. They are no longer bound by some of the strictures that were there in the past that could often lead to mistrust. We need to look at that work and the other work that is being done on tests of change.

It goes back to my point about the Social Work (Scotland) Act 1968. The community social work ethos of freedom and autonomy worked well, but some of the changes that have taken place since then, particularly in the 80s, have drawn us away from that. Let us see what this test-of-change work can do. I think that it will inevitably lead to greater trust.

**Collette Stevenson:** I have another question, which is more technical. You touched on the fact that, if social workers were to move over to the NCS, they would be transferred over under TUPE regulations. However, all 32 local authorities have varying degrees of procurement framework contracts, all of which are probably staggered one way or another through social work. How would that work?

**Kevin Stewart:** As I said, we are not necessarily talking about the wholesale transfer of staff. I have said that to every committee. However, no matter what, we need to get to a point at which we stop the kind of churn that Jamie Greene talked about earlier and, across the board, put in place the right pay and conditions for staff to aid recruitment and retention in social work and social care.

I know that the convener has asked me to be brief, and I could wax lyrical—maybe not so lyrical—or talk for hours about our ambitions for ethical procurement. Rather than me doing that just now, as I have done so elsewhere, perhaps I should just write to the committee about it.

**Collette Stevenson:** That would be welcome, minister—thank you.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Good morning, minister. This morning's session has been very reassuring on a number of counts. We have heard from witnesses who do not want to think that the service is being rushed through without their having a chance to be listened to or to be part of the co-design. From what you have said to my colleague Russell Findlay about the timescale, you are giving that time.

**Kevin Stewart:** There is no rush, Ms Mackay.

**Rona Mackay:** That is very reassuring.

We have also heard from witnesses that the status quo is not an option. Pretty much across the board, people realise that they want something to be done. I am very reassured that you have been listening to people with lived experience, and I am sure that other stakeholders will be similarly reassured.

Are you confident that, if local authorities put pressure on you not to include justice social work in the bill and that pressure is mainly based on local authorities' financial fears, you can answer those concerns?

**Kevin Stewart:** I will try to answer everybody's concerns and to find solutions to everything that is put in front of us. The Finance and Public Administration Committee went over that in some depth, as others have. Local authorities are concerned about the movement of budgets. I reiterate what I said to the Finance and Public

Administration Committee: we will try to make it cost neutral. I want to ensure that we co-operate and collaborate to the max with local authorities.

Unfortunately, COSLA is not at the table on some of those issues at the moment. I hope that that will change, because COSLA needs to be at the table too. Others will be at the table for the co-design of the national care service, and COSLA needs to be there on all the issues—not just some of them—so that its views are also heard.

As I have said, there is worry about resourcing. Let us be honest: there always is. That is the way of the world. However, as I said to the Finance and Public Administration Committee, we will try to make this as cost neutral as possible for local authorities.

**The Convener:** We are at 10 past 11, but I am happy to bring in Katy Clark if things are kept as succinct as possible.

**Katy Clark:** I will be brief.

Minister, I note that you said that you will write to the committee about what you call “ethical procurement”. However, do you not accept that commissioning is tendering, which leads to outsourcing and privatisation?

**Kevin Stewart:** No, I do not necessarily accept that. We have had situations in which a huge amount of tendering has gone on and the winning of contracts has been based on price. I will be honest with you: omissions from such contracting frustrated me over the years in which I was in a local authority—I hasten to add that not everything that we did was based on price. Other elements should be put into procurements. Fair work is the main example. We are looking at other elements that can be built into all of that.

Currently, there is a mixed economy for care. Let us be honest: the third sector plays a hugely important role in all of this, and I am quite sure that nobody wants to omit it as we move forward. Ethical procurement will drive up transparency and bring fair work into play. I will write to the committee in some depth about ethical procurement.

**Katy Clark:** Do you accept that, if it were decided to bring social work into the national care service, that would lead to a significant increase in tendering? That seems to be what you are saying.

**Kevin Stewart:** No, I do not accept that at all. Again, I will lay that out in some depth in writing.

**The Convener:** In the spirit of our coming up to the festive season, I will allow Fulton MacGregor to come in with a final quick question. We will then need to bring the session to a close.

**Fulton MacGregor:** Thanks, convener. I was not expecting to get back in, so I appreciate that.

How will you capture the lived experience that you have spoken about, minister? I think that the Government is doing a fantastic job with the adult social care part of this. I have seen a lot of the work that you are doing, and lived experience is coming through loud and clear in relation to that. We heard a lot about that at the cross-party group meeting that you referred to earlier.

However, do you have any thoughts—we are coming to the end of this session, so you might have to write to us about this—about how to hear about the lived experience of criminal justice service users and their views on whether they like the services just now or whether they would like the workers who support them to be part of a national care service? I know that you spoke about an individual and the 15 folk who are involved in supporting him. Do you have any ideas about how, on a larger scale with justice service users, you might do what you are doing now with adult social care service users?

**Kevin Stewart:** A number of things are going on at the moment. We have, of course, listened to folk all the way through the process, and there has been a huge amount of engagement across the board by not only me but officials. For example, the national care service forum brought a huge number of people in person to Perth concert hall as well as a lot of folk online, including for a lot of stuff before the event.

We are now at the stage of recruiting for lived experience panels—lived experience expert panels, I should say. More than 450 folk have applied, and we are encouraging folk from throughout the country with different experiences to play a part in that.

11:15

Beyond that, we recognise that that is not for everyone. We are also involved in targeted engagement, supported by the third sector, and that will continue. People with lived experience will also be able to participate in the options appraisal that I talked about. Options appraisal workshops will be led by the Scottish Government specifically for people with lived experience of justice social work.

I am absolutely adamant that we will continue to listen to the voices of lived experience all the way through our journey. Earlier, I talked about the implementation gaps that we all know exist in service delivery. I truly believe that the only way that we can plug those implementation gaps is by having folk with lived experience help us to shape those services, along with front-line staff.

**Fulton MacGregor:** That is reassuring.

**The Convener:** Minister, I thank you and your officials for joining us. We will pause to allow you and your officials to leave.

## Northern Ireland Troubles (Legacy and Reconciliation) Bill

11:17

**The Convener:** The next agenda item is to return to our consideration of the issue of legislative consent for the Northern Ireland Troubles (Legacy and Reconciliation) Bill following the evidence that we took from the Cabinet Secretary for Justice and Veterans. I refer members to paper 3. Members will see that the Crown Office and Procurator Fiscal Service has also provided us with its correspondence with the Northern Ireland Office.

I will open up the discussion to members. We will then consider what recommendation we want to make to the Parliament on legislative consent.

**Jamie Greene:** Before I comment, may I ask what we will be asked to do procedurally? That might affect what I say next, if that makes sense.

**The Convener:** We heard from the cabinet secretary on the legislative consent memorandum, in which the Scottish Government recommends that the Scottish Parliament should not consent to the relevant provisions in the bill as set out in the draft motion. Our role today is to consider the content of the memorandum and to decide whether we agree to not consent or otherwise.

At this stage, I want to open things up to members for queries, comments or questions. I will then formally ask the question on the LCM.

**Jamie Greene:** In that case, I am happy to give way to other members. If possible, I would then like to come back with a summary of what I would like to say.

**The Convener:** That is fine.

**Katy Clark:** I think that we should support the position put forward by the cabinet secretary that we should not give consent. However, at the previous meeting, I got the impression that Conservative MSPs were going away to, if you like, use their connections to see whether some of the concerns could be addressed. Therefore, I will listen carefully to what is said. However, on the basis of what was said in the previous meeting, I would have thought that that should be where we are, given the gravity of the concerns that were raised.

**Rona Mackay:** There are two aspects to the bill. If we leave aside the constitutional question, the first issue is that the bill is, I believe, a very bad one. It shuts the door on justice for people who are looking for justice for what happened decades ago in Northern Ireland. The bill is in no one's interest—its premise is very bad.



Constitutionally, it is a no-brainer. For example, the response from the Lord Advocate states:

“The Bill, in its current form, engages a number of areas over which I have constitutional responsibility and does so in a manner novel to Scots criminal law.”

Therefore, the bill would represent new ground and not good new ground, so I strongly recommend that we do not consent to the LCM.

**The Convener:** Rona Mackay has just outlined part of this, but I remind members that there are two reasons why the Government does not recommend giving consent. First,

“The Government is of the view that the Bill, as currently drafted, is incompatible with the Scottish Government’s views that those who have suffered during the Troubles are able to obtain justice and that those who committed offences during that time are appropriately held to account/punished.”

Secondly,

“the Bill makes novel and unwelcome changes to the functions and responsibilities of the Lord Advocate as head of the systems of criminal prosecution and investigation of deaths in Scotland”.

Those were the two key reasons. Does anyone else want to come in?

**Collette Stevenson:** I totally agree with Rona Mackay. I do not want to give consent for the bill to go forward.

The financial implications also stood out. They are given at between £35 million and £50 million per year. To me—

**Jamie Greene:** That is not the Scottish Government.

**Collette Stevenson:** I know, but it is still the public purse. That is quite substantial, and other costs would be incurred along with that. However, yes, absolutely, at the heart of it, it is about the ability of the victims of the historical troubles in Ireland to get justice.

**Pauline McNeill:** I agree with what has been said. There are two matters to consider. First, there is the substance of the bill itself, which does not seem to have widespread support even in Northern Ireland. I checked that after the last committee meeting. That gives me cause for concern that the subject matter is not really settled—that there is not really a consensus on it. Therefore, the undermining of the powers of this Parliament cannot really be justified, given that there is not a consensus on the essence of the bill among those who have an interest in it and who would be affected by it.

Having argued strongly for devolution even before I got here, I have always been strongly protective of the Parliament’s powers. If we were to hand over those powers for those purposes, I

would want to be absolutely sure that we were doing that for reasons that I felt were correct and justified. In this case, I do not feel that way, so I will support the Government’s recommendation that we do not support the LCM.

**Fulton MacGregor:** I had not planned to speak on this item, and I will not speak just for the sake of it but, given the gravity of what we are being asked to decide today, it is important to put my views on the record. I agree completely with what my colleagues Rona Mackay, Collette Stevenson and Pauline McNeill have outlined. I just want to put that on the record.

**Russell Findlay:** I agree with Collette Stevenson that this is, indeed, about justice for victims, but I disagree with Rona Mackay, who is fundamentally more opposed to the bill in principle.

It is worth bearing in mind that the intent behind the bill is to achieve justice and answers for those who have spent decades not being able to get any, and it is a very sensitive and unique situation.

It is also worth bearing in mind that, when I spoke to the cabinet secretary during the evidence session, he seemed to agree with the principle of the United Kingdom-wide approach, so it would be somewhat hasty to oppose the bill, because it is more important that we seek to overcome any incompatibility or issues between the various parts of the UK.

**Jamie Greene:** I thank members for their contributions. I feel like I am summing up a debate, when I am not, but I have spent some time on this issue.

First, I want to make clear that whatever I say next I do not say on behalf of the UK Government, the Northern Ireland Office or any other UK minister or secretary of state. These are purely my own views and those of the party in the Scottish Parliament. Generally, our party is supportive of the concept of the establishment of the independent commission for reconciliation and information recovery. That is not to say that every aspect of the bill is perfect in its current state but, like all bills—as we know only too well—this one will go through an iterative process of scrutiny. The bill will go through the due process in Westminster, which, unlike the Scottish Parliament, also has the benefit of a second chamber.

The clue is in the name. The commission is one of reconciliation and information recovery, and I believe that those are important steps forward in the peace process. The argument that both sides of the political spectrum in Northern Ireland have some opposition to it, by its very nature, demonstrates the necessity of the bill, because truth and closure are key pillars of that process,

and if the independent commission—if it is really independent—can continue some of that work, that is important.

It is a five-part bill with 58 clauses, so it is complex and, although there are some controversial elements—particularly on immunity and perhaps even the issue of prisoner release and so on—those issues have been controversial for many years, as part of the peace process.

There are positive aspects on investigation of deaths, fatal accident inquiries and so on. There are many aspects to the bill, and it is very easy to take a simplistic and one-sided view on it. I am open minded to what the bill is trying to achieve, and I feel that it is appropriate to let it make its progress.

On the specifics of what we are being asked to do in the context of legislative consent, I want to comment on three things. The Government gave three reasons for opposition rather than two, I think.

The first is around concerns that were raised by the Lord Advocate, which were duly and quite well stated. When we considered the issue previously, we did not have those concerns on paper. From looking at the correspondence from the Lord Advocate to the secretary of state in the UK Government, it is clear that those concerns are well laid out. Equally, the letter goes on to offer a pathway through the concerns.

The Lord Advocate talked about a memorandum of understanding with each of the United Kingdom prosecution authorities—in relation to referrals, for example. I do not want to put words into the Lord Advocate's mouth, but it seems that there is a genuine and constructive willingness on her part to find a solution to any conflict that might arise between her independent role as head of public prosecutions in Scotland and interaction with the bill and the powers that Pauline McNeill spoke of.

It is not quite as simple as our handing over powers from Scotland to another jurisdiction, today. It sounds as if there is an on-going conversation to be had, and we should allow that to progress. I note that it is naturally disappointing that we have not had a response to those concerns, and I hope that we will have sight of that when it is made available.

The second point is about compliance with the European convention on human rights and the potential legal implications of the bill for human rights law. I questioned that in the evidence session with the cabinet secretary, and I felt like he gave more of an opinion than anything else. The cabinet secretary was unable to point us in the direction of any specific published reviews or advice on that. It seems to be something of a smokescreen.

11:30

The third point—this is probably the one that worries me most—is the political disagreement on the bill. The Government's primary reason for not offering legislative consent is that it believes that, as drafted, the bill is incompatible with the Scottish Government's view that those who suffered during the troubles should be able to obtain justice. That sounds more like a difference of opinion on policy rather than one based on legality.

That is, of course, based on the bill as drafted. The bill will go through a process and I expect all parties, including members who represent the Scottish Government's party in the UK Parliament, to conduct that process properly. We put our trust in them to do that.

For that reason, our view is that we should offer legislative consent, let the bill run its course, and work through the many issues that I have mentioned. Holding it back at this stage would be unhelpful. We therefore do not agree with any recommendation to withhold consent.

**The Convener:** Thank you, members—that has been helpful.

I will add a few personal comments. Jamie Greene talked about the correspondence between the Lord Advocate and the secretary of state. The Lord Advocate's most recent correspondence was on 10 October, when she wrote to the new Northern Ireland secretary and outlined suggestions on the bill. As far as I am aware, the Lord Advocate has not had any response to that. On that note, the bill is nearly complete and through its journey, so I am concerned that nothing has come back from the UK Government in response to the Lord Advocate's correspondence.

Secondly, I want to point out some comments from the Council of Europe Commissioner for Human Rights that the bill runs the risk of being found to be non-compliant with human rights. Indeed, the Northern Ireland Human Rights Commission also expressed grave concerns about the bill and its incompatibility with the Good Friday agreement. The cabinet secretary alluded to that in his statement when he joined us a couple of weeks ago.

Finally, I am uncomfortable with the notion that the ICIR would have a role in Scotland that could impact on people's access to justice, whatever that might be. I am also uncomfortable with the notion that the role and function of the Lord Advocate could be affected.

Does the committee agree with the Scottish Government that the Scottish Parliament should not consent to the relevant provisions in the bill as

they have been set out in the Scottish Government's draft motion?

It is probably best to go round the table and let members indicate their position.

**For**

Clark, Katy (West Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Stevenson, Collette (East Kilbride) (SNP)

**Against**

Findlay, Russell (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)

**The Convener:** We will compile a report and present it to Parliament.

**Jamie Greene:** I would like to make a small request of the clerks. These LCMs are often waved through quite easily. I presume that the issue will come to a vote in plenary at some point, and it would be nice to know when that is coming up so that we can keep an eye out for it.

**Stephen Imrie (Clerk):** That is correct, Mr Greene. It will come before the Parliament and it will be up to the Parliament to decide. There might be a vote, if necessary. As soon as we have information on the timing of that, we will let the committee know as far in advance as we can.

**The Convener:** Are members content to delegate to me the publication of the report that summarises the outcome of our deliberations on the LCM?

**Members indicated agreement.**

**The Convener:** The issue will now be sent to the chamber for all members to decide, based on our report.

That completes our final business for the year.

I take this opportunity to wish all members, our clerks and other staff all the very best for the festive season. I hope that you all have a happy and peaceful Christmas and new year.

I also thank all the witnesses who have given formal and informal evidence to the committee this year. It is greatly appreciated.

I now move the meeting into private.

11:36

*Meeting continued in private until 11:46.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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