



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Criminal Justice Committee

**Wednesday 31 May 2023**

**Session 6**



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**CRIMINAL JUSTICE COMMITTEE**

**17<sup>th</sup> Meeting 2023, 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:**

Stuart Allardyce (Stop It Now! Scotland, Lucy Faithfull Foundation)  
Angela Constance (Cabinet Secretary for Justice and Home Affairs)  
Daljeet Dagon (Barnardo's Scotland)  
Wendy Hart (National Crime Agency)  
Detective Superintendent Martin MacLean (Police Scotland)  
Alison Penman (Social Work Scotland)  
Joanne Smith (National Society for the Prevention of Cruelty to Children)

**CLERK TO THE COMMITTEE**

Stephen Imrie

**LOCATION**

The David Livingstone Room (CR6)



## Scottish Parliament

### Criminal Justice Committee

Wednesday 31 May 2023

*[The Convener opened the meeting at 10:00]*

#### Decision on Taking Business in Private

**The Convener (Audrey Nicoll):** A very good morning, and welcome to the 17th meeting in 2023 of the Criminal Justice Committee. There are no apologies this morning, and Fulton MacGregor is joining us online.

Our first item of business is a decision on whether to take in private item 6, which is consideration of today's evidence. Do we agree to take that item in private?

**Members** *indicated agreement.*

## Subordinate Legislation

### International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2023 [Draft]

10:00

**The Convener:** The next item is consideration of an affirmative instrument. I am pleased to welcome Angela Constance, the Cabinet Secretary for Justice and Home Affairs, and her officials to the meeting. From the Scottish Government, we have Walter Drummond-Murray, who is head of the civil courts unit; Conor Samson, who is justice co-operation policy manager; and Emma Thomson, who is a solicitor in the legal directorate. I refer members to paper 1, and I invite the cabinet secretary to speak to the instrument.

**Angela Constance (Cabinet Secretary for Justice and Home Affairs):** Good morning, convener, and thank you. The draft International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2023 confers various legal immunities and privileges on the International Criminal Police Organization, which is more commonly known as Interpol, and specified categories of people who are connected to Interpol so far as it is within the devolved competence of this Parliament. The United Kingdom Government has negotiated a privileges and immunities agreement with Interpol to provide it with the privileges and immunities that are necessary for it to function effectively in the UK and to enable Glasgow to host the 2024 Interpol general assembly, for which granting privileges and immunities is a prerequisite.

The agreement regulates the privileges and immunities that are afforded to Interpol, such as certain tax exemptions and immunity under certain conditions from legal process. The agreement obliges the United Kingdom to abide by the terms of the agreement. The order before the committee today fulfils those obligations in so far as they relate to devolved matters in Scotland. Equivalent provision in respect of reserved matters and devolved matters in the rest of the UK is being conferred by legislation at Westminster. However, to the extent that privileges and immunities relate to devolved matters in Scotland, conferral rightly falls to the Scottish Parliament. When respective parliamentary passage is complete, both orders will go before the Privy Council in July.

To assist the committee, I will say a little bit more about the nature of the privileges and immunities that are involved. The immunities cover things that are done or omitted to be done by members of Interpol only while exercising their

official functions in connection with Interpol and the general assembly. There is an exception to the immunity in respect of road traffic accidents. All persons enjoying privileges and immunities are expected to respect the laws and regulations that are in force in the UK, and the secretary general of Interpol must co-operate at all times with the appropriate UK authorities to prevent any abuse of the privileges and immunities. The order also provides for the inviolability of any private residence of the secretary general, exemption and privileges in respect of personal baggage, and exemption or relief from all devolved and local taxes.

It is customary to grant such privileges and immunities to diplomatic missions and international organisations to enable them to function. The agreement is broadly in line with global practice and includes provisions to ensure that immunities and privileges do not impede the proper administration of justice. The privileges and immunities that are conferred by the draft order are granted primarily on the basis of strict functional need. They are no greater in extent than those that are required to enable Interpol and specified individuals connected with Interpol to function effectively. The immunity does not apply to a person who is a British citizen or any person who at the time of taking up his or her functions is a permanent resident of the United Kingdom.

Immunities and privileges are, therefore, limited in that they apply only to official functions and can be waived. The immunity is analogous to but more limited than the immunity that has been for generations conferred on diplomats working in foreign jurisdictions. As with diplomatic immunity, all individuals benefiting from privileges and immunities in Scotland are expected to respect Scots law, both criminal and civil.

The draft order implements the agreement that the UK has reached with Interpol in line with global practice. It enables Interpol to hold the general assembly in Glasgow and conduct its activities in the UK, while ensuring and upholding protections for the effective administration of justice. As a good global citizen, it is the responsibility of the Scottish Government to bring the order to the Parliament for consideration. I commend the order to the committee.

**The Convener:** Thank you. That is very helpful. We now open up to questions. I think that you covered this in your opening remarks, cabinet secretary, but can you confirm that the provisions that we are looking at would be for the duration of the general assembly event only and do not stretch beyond that? The policy note that we have says:

“it is necessary to grant INTERPOL the relevant privileges and immunities required to operate effectively

across Great Britain and Northern Ireland on an ongoing basis.”

Can you confirm that that does not mean that, once the order is in place or if it is agreed to today, it would be a permanent provision?

**Angela Constance:** As my speaking note and the policy memorandum indicate, the order has two functions. One is to enable Glasgow to host the general assembly of Interpol, so there is very specific consideration given to the operational needs of Interpol with respect to those functions. The other purpose to the order is that it is particularly important post-Brexit to ensure that the United Kingdom can continue to collaborate with Interpol, given its importance as an international forum of co-operation in law enforcement.

There is no end date to the order, and it is for either party—Interpol or the United Kingdom—to terminate it. It is a necessary order for the specific function of the general assembly and the individuals who will attend the general assembly. Its broader function relates to what the UK Government has negotiated in the agreement to secure an on-going relationship with Interpol, and it is in all our interests for the UK to continue to engage with Interpol.

**The Convener:** Thank you for that helpful clarification. Jamie Greene wishes to come in, then we will hear from Russell Findlay.

**Jamie Greene (West Scotland) (Con):** Good morning, cabinet secretary and our other guests. I have two short questions, but first I congratulate the city of Glasgow on its successful bid to host the Interpol event in conjunction with the Foreign, Commonwealth and Development Office.

My primary question is on the comments that the cabinet secretary made about road traffic accident exemptions. Is that a blanket exemption to all delegates for the duration of their time in Glasgow, or, if an incident occurred, could the proposition be made that it occurred while they were exercising their duties, which I think was the language that you used, and they could, therefore, claim immunity in such circumstances? I was a bit unclear as to how that would be handled by Police Scotland in the unfortunate event that what we hope does not happen were to happen.

**Angela Constance:** I am grateful to Mr Greene for raising those matters. It is, of course, a great opportunity for the city of Glasgow. It is a prestigious international event. It is not as big as the 26th United Nations climate change conference of the parties—COP26—as it will be on a smaller scale and will not last for the same duration. It will have fewer delegates than visited Glasgow during COP26. Nonetheless, it is a great opportunity for the city to show that it is well able to host such events.

I will re-read the pivotal sentence in my statement: there is an exception to immunity in respect of road traffic accidents. I think that that is very clear. I do not know whether officials wish to add anything, but the fact of the matter is that there is an exception to immunity.

**Jamie Greene:** It was more in relation to somebody, for example, commuting from their temporary place of residence to the conference centre and something happening in that environment, whereby they could argue that they had immunity. However, that is fine.

The other question is more general. What discussions has the Scottish or UK Government had with Police Scotland about policing the event? Has there been any analysis of the resourcing levels that will be required, or has there been a finger in the air on the financial cost? That is not an issue as such, but it is important for the committee to keep a watching eye on such things.

**Angela Constance:** It will be for the UK Government to meet the costs that are incurred by Glasgow City Council and Police Scotland. The Home Office has been very clear on that. We are still some distance away from the general assembly. We are looking at November next year, so much of the work on estimating costs will continue. Police Scotland and Glasgow City Council are confident that the plans that they have in place are appropriate, but there will continue to be very close dialogue between the Scottish Government, the UK Government and, of course, our partners in Glasgow.

**Russell Findlay (West Scotland) (Con):** Good morning. I would also like to put on record that I am very pleased that the United Kingdom Government has secured the prestigious event and decided to host it in Glasgow. I agree with the Minister for Security, Tom Tugendhat, who says that it

“underlines the UK’s role as a global leader when it comes to security and policing”.

I am grateful to all the members who have supported my parliamentary motion, which I have taken the opportunity to briefly plug.

I was going to ask the same question that Jamie Greene asked about the road traffic accident exemption. Do you know whether the exemption was arrived at due to the high-profile case in which a young man was killed by an overseas diplomat in the UK?

**Angela Constance:** It is my understanding that past experience always informs future negotiations over matters in and around such important agreements.

**Russell Findlay:** I have another, more general, question. Is this pretty much the same situation as

COP26 and there is no meaningful difference to the exemptions in the order?

**Angela Constance:** It is broadly similar.

**Russell Findlay:** Great. Thank you.

**The Convener:** As members have no further questions, I invite the cabinet secretary to move motion S6M-08712.

*Motion moved,*

That the Criminal Justice Committee recommends that the International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2023 [draft] be approved—*[Angela Constance]*.

*Motion agreed to.*

**The Convener:** On that note, I thank the cabinet secretary and her officials for their time. I suspend the meeting briefly to allow for a changeover of witnesses.

10:14

*Meeting suspended.*

10:16

*On resuming—*

## **Tackling Online Child Abuse, Grooming and Exploitation**

**The Convener:** Our next item of business is an evidence-taking session on tackling online child abuse, grooming and exploitation. This is the committee's second evidence session on the issue, following our initial consideration in May last year.

I am very pleased to welcome to this morning's meeting Daljeet Dagon, who is programme manager at Barnardo's Scotland; Stuart Allardyce, who is director of Stop It Now! Scotland for the Lucy Faithfull Foundation; Wendy Hart, who is deputy director for threat leadership and child sexual abuse at the National Crime Agency; Joanne Smith, who is policy and public affairs manager at the National Society for the Prevention of Cruelty to Children Scotland; Detective Superintendent Martin MacLean, who is the head of the national child abuse investigation unit in the specialist crime division of Police Scotland; and Alison Penman, who is a senior manager at Dumfries and Galloway Council, and depute chair of the child protection group of Social Work Scotland. A warm welcome to you all, and thank you for your written evidence. I refer members to papers 2 and 3.

I intend to allow around 90 minutes for this session, so we will move straight to questions. To kick things off, I invite each of the witnesses to make some short opening remarks about the work that their respective organisations are undertaking and have been developing on the issue. I will start with Daljeet Dagon.

**Daljeet Dagon (Barnardo's Scotland):** Barnardo's Scotland has been working on the issue of child sexual abuse and exploitation for around 30 years in Scotland. Personally speaking, I have been involved with the organisation for over 25 years, so I have substantial experience.

From our perspective, we still do not have an understanding of the scale, nature and extent of child sexual abuse in Scotland, and that is a critical issue for us to consider. We also now need to be aware of the new and emerging themes and harms that are relevant. *[Interruption.]* Do you want me to wait until the sirens finish, convener?

**The Convener:** I apologise for the interruption—we have the windows open, because it is quite warm in the committee room. I think that we are fine now.

**Daljeet Dagon:** No worries.

Again, from the perspective of working with children and young people, I think that we have spent too long expecting children to protect themselves and to take responsibility for the abuse and harm that they suffer and encounter. It is about time that we made technology organisations and companies take much more responsibility for preventing abuse from happening in the first place and for looking at measures to protect children from harm.

The last thing that I want to mention is that although we are focusing on sexual abuse today, it is also important to think about the other harms that children are exposed to online. From my perspective and our organisation's perspective, that includes, in particular, child criminal exploitation, with online coercion and abuse on the rise.

**The Convener:** I am sure that there are points in your opening remarks that members will want to come back to. I will bring in Stuart Allardyce now.

**Stuart Allardyce (Stop It Now! Scotland, Lucy Faithfull Foundation):** Stop It Now! Scotland is part of the Lucy Faithfull Foundation, which is a United Kingdom charity that focuses on the prevention of child sexual abuse. Stop It Now! was established in Scotland in 2008, while the UK charity goes back to the 1990s.

We do a number of different things. Our UK helpline works with several thousand individuals every year who are worried about their sexual thoughts and feelings towards children, including those who are involved with online behaviour. They can use the anonymous and confidential support provided by our child protection professionals who staff the helpline.

In Scotland, we work with around 100 individuals who have been arrested for online offences and who cannot get access to statutory supports until they are convicted; at present, it is taking around two years for individuals to be convicted. We also work with the partners and family members of those individuals, as well as with around 30 young people who are charged with online sexual offences every year. We provide support, challenge and therapeutic care to those individuals.

The key thing that I want to convey to the committee is that prevention of online harm has three components. The first is safety by design—that is, the stuff that tech companies need to take on board and which the UK Online Safety Bill is driving. The second component is the right messaging to young people and parents themselves. I take on board Daljeet Dagon's point that it is not the responsibility of children to stop themselves being abused, but there are messages that could be helpful for young people in this



space. The final component is perpetrator-focused prevention, which is about ensuring that deterrence, disruption and early help are provided for individuals in this particular space.

All of those components need to be in place—one alone will not define what prevention looks like—and they all need to be locked into a strategic vision that comes with the right resourcing and scalability of solutions. I am sure that we will tease all of that out as we go through today's session.

**Joanne Smith (National Society for the Prevention of Cruelty to Children):** The NSPCC led the campaign for the introduction of legislation to strengthen the regulatory regime around the online environment back in 2018. However, there have been delays in pushing that forward, many of which have been to do with the political unrest at Westminster. It has been deeply frustrating not to see that level of momentum and priority given to children's safety online, given the harm that we know has been done in the intervening years, so I am glad that the committee is facilitating this conversation now.

We are involved in developing the legislation at UK level, but we are also seeing and feeling the scale and nature of childhood sexual abuse online through the increase in contact with Childline. Although children's experiences are wide and varied, we are seeing a certain trajectory, with unsafe design functions in online spaces being exploited by perpetrators and putting children at risk.

The scale that we are seeing is not inevitable. Prevention is possible; indeed, the technology exists to build that in at the design stage, and it is important that we push ahead and make sure that, as Daljeet Dagon has said, that accountability is felt within the tech industry.

We are increasingly upskilling young people to keep themselves safe online, and there is also a huge appetite in most parents to upskill themselves in order to keep their children safe online. The police are doing an excellent job, with better detection and moves towards prosecution, and it is vital that the tech industry steps up to the plate and takes its share of the responsibility to keep children safe when they use their platforms. The Online Safety Bill will, we hope, go some way towards doing that.

**Wendy Hart (National Crime Agency):** Thank you very much for having me here today. The National Crime Agency is focused on tackling child sexual abuse upstream, online and overseas. By that, I mean that we look at the architecture that supports this kind of criminality, the online space and the other international jurisdictions where criminality takes place.

We are actively engaged in understanding the threat through our intelligence collection capabilities, our strategic analysis and our CSA investigations, but for the purposes of today's session, I would highlight our system leadership role as defined in the Crime and Courts Act 2013, which is to secure an efficient and effective response to serious and organised crime, including online child sexual abuse. To do that, the National Crime Agency works through strategic governance arrangements, in which Police Scotland is a key and active member, to address the four Ps—or, under the Scottish serious organised crime strategy, the four Ds—and engage in areas from prevention through to pursuing responsibilities.

I agree with colleagues that the scale of this is increasing in complexity and severity and that prevention is a critical part of early intervention.

**Detective Superintendent Martin MacLean (Police Scotland):** Good morning and thank you for the invitation to give evidence today.

The issue of child sexual abuse and exploitation remains a very high operational priority for Police Scotland. Its scale is such that we are continuing to experience enduring increases, with the latest figures for the last financial year showing a 6.6 per cent increase on the five-year average of crimes recorded as online child sexual abuse and exploitation.

We are also continuing to see significant increases in industry referrals, particularly from the National Center for Missing & Exploited Children, with a 500 per cent increase from 2015 to 2022. In the main, the referrals translate into enforcement activity that is largely carried out by my operational teams. By way of illustration, I point out that, last year alone, they translated into 712 investigations, 489 arrests and the safeguarding of 782 children.

As for Police Scotland's approach, it remains the case that we want to be at the forefront of international good practice, and we are utterly committed to robust enforcement and tackling perpetrators. However, we totally understand the importance of our partnership working and the preventative approach that colleagues have already touched on.

A critical facet of that is the multi-agency preventing online child sexual abuse and exploitation meeting, detail of which is contained in our written submission. Our work with horizon Europe and the 2PS—prevent and protect through support—project, the work with Childlight and, indeed, the International Society for the Prevention of Child Abuse and Neglect conference in Edinburgh, which will take place later this year, all illustrate our commitment to working in that international sphere. The MAOCSAE meeting has

also been important not only in our engagement with, originally, the Department for Digital, Culture, Media and Sport and the Home Office but in our developing relationship with Ofcom Scotland in anticipation of its increased profile and regulatory role with the Online Safety Bill.

Other matters have been detailed in our written submission, convener, but I hope that that is enough to start with.

**Alison Penman (Social Work Scotland):** From a social work perspective, our child protection responses are similar to our responses to other areas of harm, although there are certain things that we would want to be taken into account.

Across Social Work Scotland and in partnership, we are in the process of implementing the 2021 national child protection guidance, with full implementation expected by the autumn. Within that, particular attention is paid to interagency referral discussions—or IRDs—where police, social work, health and often education come to the table to take the initial decisions about how we respond to children who have been harmed or, indeed, are harming others.

We would particularly like this discussion to give consideration and recognition to children who behave harmfully towards others, as they often require different approaches in intervention programmes. As part of that, we want links to be made with the Children (Care and Justice) Bill and the Age of Criminal Responsibility (Scotland) Act 2019, because we need to think very much about where children fit into all of this, particularly the bairns' hoose development, and how we ensure that children who harm other children are being properly supported to recover from their trauma as well as addressing their offending. We also work closely with Children and Young People's Centre for Justice on our framework for risk assessment, management and evaluation—or FRAME—guidance, which relates to how we implement care and risk management strategies for children who behave dangerously towards others.

Ultimately, we are looking for an overarching strategy that brings together all the different sexual harms that children experience. Although Westminster has a sexual abuse strategy, it barely recognises children who offend against or behave harmfully towards other children. That was potentially a missed opportunity, and we do not want to follow down the same track. As a result, we are, as I have said, looking for an overarching sexual harm strategy that looks at prevention, intervention and recovery and which is properly resourced to ensure that the partners have the facilities and resources that they need to recognise, identify and respond to these children and help them recover from their experiences.

10:30

**The Convener:** Thanks very much. Gosh! There was a lot in those opening remarks, and a lot for us to try to unpick in our questions.

I will now open it up to members, who I know have some questions that they want to ask. We will start with Russell Findlay.

**Russell Findlay:** Good morning. I have a lot of questions. I will ask a couple now and perhaps come back in if there is time to do so.

**The Convener:** I suggest to members that they should direct their questions to specific panel members so that we use our time as efficiently as we can.

**Russell Findlay:** Absolutely. This question is probably for Martin MacLean.

Last year, your Police Scotland colleague Bex Smith told the committee about significant legislative gaps in relation to child sexual abuse and exploitation, and she gave a couple of examples. She said:

“there is no Scottish legislation that is specific to prohibited images”

and

“The current criteria for an application for a risk of sexual harm order does not cover online offences.”—[*Official Report, Criminal Justice Committee*, 18 May 2022; c 37.]

A year has now passed since then. The former Cabinet Secretary for Justice and Veterans, Keith Brown, told the committee that the Scottish Government had indeed engaged with the Crown Office on the particular concerns that your colleague raised. He said to us in writing that the Scottish Government is assessing the Crown's feedback and will meet Police Scotland in due course to discuss a response to the issues that it has raised.

A year down the line, we would like to know whether you have had that meeting and that feedback yet. Do you know what the Crown's position is in response to the requests that your colleague raised? Was its position put in writing? If so, could we see that? Where are we at?

There is quite a lot in there. I am sorry.

**Detective Superintendent MacLean:** A number of questions are in there.

If there are written submissions from the Crown Office to the Government, that is not a matter for me to comment on. We have had a meeting with Scottish Government colleagues on the notion of the legislative gaps that was raised last year.

The specific point on the risk of sexual harm orders is, arguably, academic now because they have been replaced by the sexual harm prevention

orders. The previous sexual offence prevention orders are now sexual harm prevention orders. The criteria to apply for the replacement orders are much more favourable, so that gap is no longer relevant. That is helpful.

**Russell Findlay:** Those two elements seem to have been dealt with. However, in Police Scotland's written submission for this particular session, four serious issues that relate to indecent images of children are identified. They include

"Extreme Pornographic Material/Prohibited Images (CGI, cartoons etc.)",

"Child-like Sex-Dolls"

and

"Preparatory Acts & Collection of Relevant Information"—

I am not entirely sure what that means. There are still legislative gaps there.

**Detective Superintendent MacLean:** Those matters are still extant, and there has not been a definitive resolution for the way forward. However, there have been constructive meetings with the Government, and my understanding is that the plan is that Government colleagues will bring Police Scotland and the Crown Office back to the table to discuss them further.

**Russell Findlay:** Right. Are you satisfied with the pace of progress?

**Detective Superintendent MacLean:** There is detail to be worked through, but I am not unduly concerned by the pace.

**Russell Findlay:** Okay. Thank you very much.

I have a question for Stuart Allardyce. There are a number of asks of the committee in your written submission. One of those is

"The development of a Scotland-wide strategy to tackle online child sexual abuse."

There is no such strategy in Scotland, but there is one in England and Wales. How long has your organisation been asking for that? Do you know what stage we are at progress-wise?

**Stuart Allardyce:** We have asked for that for two or three years now, and I know that other children's charities have pointed out that that is a significant lack. There is an action plan for Wales and, separate from that, a Home Office strategy for tackling child sexual abuse in England, but there is nothing in Scotland. That is not to say that there is not a huge amount of activity going on in the general field of tackling child sexual abuse and online harm and, indeed, in prevention, but that means that there is no strategic vision and that solutions are often piecemeal, quite disconnected from one another, and not adequately resourced.

**Russell Findlay:** Okay. Thank you.

Another ask is for a Scottish deterrence campaign. Again, there is a difference. There is no campaign currently, but similar things are happening elsewhere. Do you know whether that is progressing?

**Stuart Allardyce:** To be frank, we have not had extended discussions with the Scottish Government about that, but I think that we should. Our UK charity is funded by the Home Office to do specific deterrence work that targets those who are at risk of online offending or who have started online offending and are unarrested, but may be available to seek early help in anonymous and confidential spaces.

We have seen a significant increase in the number of people who use our online platforms for help in England and Wales and a significant increase in the number of calls that we receive on our helpline in England and Wales. We are seeing a slight increase in Scotland, but not the same kind of increase.

I think that the reason for that is mostly that the deterrence work that is funded by the Home Office does not extend to Scotland and there is currently no ring-fenced funding for deterrence and disruption work in Scotland. We have done work in partnership with Police Scotland, which has resulted in significant uplifts in the number of people coming forward and accessing early support and help for that behaviour but, without the right resourcing, we will not be able to drive people to those forms of early support.

**Russell Findlay:** May I ask another question, convener?

**The Convener:** Maybe I can come back to you. I will let some other members come in.

**Pauline McNeill (Glasgow) (Lab):** Good morning, everyone. In our previous session, I was very interested—and I still am—in image-based abuse across the board. I have done a bit of work since that conversation, and I am now convinced that there is a gap in the law in relation to abusive sex-based images, and particularly in relation to consent. I am talking about the sharing of those images and the damage and harm that can be done to children and young people in particular. That is the context.

Alison Penman mentioned that issue specifically. I want to ask her about young people—or however we want to categorise older children.

I noted everything in your submissions about the importance of how you message young people. You would not do that in the same way that you would to adults. I am conscious that most of the work focuses on the risk that is presented by adults. However, we are talking about children. Do

you think that there is a gap in the law in relation to the harm that can be done if images are shared? I know that Stuart Allardyce has mentioned that fake images are a live issue. I am not convinced that the law is adequate at the moment. What do you think about that?

**Alison Penman:** Yes, we agree with that. Although the majority of online sexual abuse and harm continues to be perpetrated by adults, I think that Stuart Allardyce has some figures that relate to the increase in children who offend under that legislation. The investigative and justice responses to those children are similar to the responses to adults in many instances. It is about remembering that, when children behave to others in dangerous or harmful ways, that quite often comes from a place of trauma, and a significantly different response is needed.

I do not think that we are where we should be in understanding what that needs to look like. We need to see online sexual abuse and exploitation as part of an overarching sexual harm strategy, as I said at the beginning, and I do not think that there is enough on that.

In our submission, we referred to how we link in with schools and support them to have conversations with children. A lot of schools already have mentors in violence prevention. Sixth-year pupils mentor and support younger children. It is recognised that, from a child development perspective, the influence from other young people is often greater than it is from adults.

Schools are doing that actively, but they are struggling to provide those interventions because of their resource shortfalls. We are increasingly seeing in schools, particularly since Covid, an increase in children who display communication disorders or traits of communication disorders, such as autistic spectrum disorder. They sometimes struggle to understand social interactions and what is and is not acceptable behaviour. For children—particularly children who might have additional communication needs—understanding what constitutes criminal behaviour and what constitutes behaviour that is normal because their peers are doing it is a real struggle.

**Pauline McNeill:** I want to follow up on your last sentence, on behaviour that is increasingly seen as normalised. This is borne out by some studies in England, which we do not have in Scotland. I am interested in the victims, who are mainly but not always girls, and the harm that can be done to girls. I imagine that you include that in the broad definition.

**Alison Penman:** Yes.

**Pauline McNeill:** Of course, we do not have control over the tech companies that we would

like. There is controversy currently around how far the Online Safety Bill goes.

I noted what you said about how to deal with young people and how trauma can be the basis on which people's behaviour is maybe what it should not be, but there is normalising in schools that is acceptable. Will you come back on that? That is the area in which I think there might need to be stronger messages in the law in relation to the sharing of images because, once images are shared, it is very difficult to get them back.

**Alison Penman:** That is right. Children often do not know. That activity in schools usually involves children sharing images with other children, and children quite often still do not know that they are breaking the law by doing that. They do not understand the far-reaching consequences of such behaviour if somebody were to complain, and they were investigated and charged. It is likely that that would be dealt with through the children's hearings system, but that would still be on the record.

You are right about the impact. The impact for victims of such behaviour can be absolutely life changing. That is why we need to be able to look at the issue from a legislative perspective, but also look at identification, recognition, prevention and intervention.

**Pauline McNeill:** I know that Stuart Allardyce might want to answer that question, but I will ask Detective Superintendent Martin MacLean what powers Police Scotland has to delete images. I am not even sure that that is in your jurisdiction. The issue is that there is a grey area around whether what we are talking about is actually contrary to the law, but are there any powers on the deletion of images?

**Detective Superintendent MacLean:** Police Scotland does not have any specific power in that regard. The Internet Watch Foundation tends to take the lead. There are report-and-remove tools that can be used by the police, on behalf of a victim, or by victims and their families to refer an image to the likes of the Internet Watch Foundation to assist with the removal of that image from the internet. Does that answer your question?

**Pauline McNeill:** Yes, that is helpful. I do not have any further questions, but other panel members, such as Stuart Allardyce, might want to answer the same question.

**Stuart Allardyce:** Thank you. Your point is very well made. Clearly, it is important for children and young people to know that the sharing of self-produced images is illegal, but we need to be cautious about the messaging. I say that because we now have a growing body of research that tells us that, when it comes to zero-tolerance

approaches to young people being involved in self-produced sexual imagery—which, initially, often involves them sharing images of themselves with peers within consensual contexts—the more we tell young people not to do that, the more difficult that makes it for them to come forward if they have worries.

10:45

A 14-year-old girl who shared a photograph of herself with her boyfriend and who is worried that that might have been a mistake might think that she should go and speak to an adult about it, but if we consistently have messaging at school that says, “This is against the law. You will get into a lot of trouble if you do this. You must never do it,” that makes it very difficult for that young person to come forward. There are a couple of things that we—

**Pauline McNeill:** Sorry, can I interrupt you? I totally accept that, but I want to be specific. I am talking about the scenario in which that image is then shared without consent. I was involved in the consideration of the legislation that was passed in this area and I understand the difficulties about where to draw the line. I am asking about the situation in which that image is shared. I do not think that the law covers that scenario, but I could be wrong.

**Stuart Allardyce:** I might defer to Martin MacLean on that. I think that there is legislation.

**Detective Superintendent MacLean:** The so-called revenge porn offence covers the offence in your question. For example, if the former partner of the person who sent the image initially sends it on in a malicious way, that is an—

**Pauline McNeill:** They consented to the image, but they did not consent to the sharing. It is the sharing aspect of it that constitutes the offence.

**Detective Superintendent MacLean:** That is correct. It is one thing to post an image on the internet, from which it could potentially be taken down via the processes that I have described, but if the image is simply shared with another person on WhatsApp or some other social media platform, arguably, it is on the internet. If it is shared using a private messaging exchange, it will not be on the internet as such, if you see what I mean. I do not know whether that is what you are asking about.

The difficulty is in how the victim then regains control of that image. It is almost impossible to do that, short of knowing that it has been shared with only one other person. If the former boyfriend shares it with one person and we can identify that person, recover that device and get it deleted from the phone, that might be the tight set of circumstances to which I think that you are

referring in which we could definitively state that all versions of the image had been removed. However, it is almost impossible to get to that point. Somebody might share it with 10, 15 or 20 people.

**Pauline McNeill:** Is it unlawful to share such an image with so many others?

**Detective Superintendent MacLean:** Yes, of course.

**Pauline McNeill:** It is. Thank you.

**Stuart Allardyce:** There is legislation in place, but the messaging really needs to be that this is risk-taking behaviour, because someone who sends an image of themselves does not know what will happen to it over the longer period. The more critical issue here is probably that of coercion and control within relationships and young women, in particular, being forced or pushed into sharing images against their will. There are a number of aspects that we need to address, but they are probably more about education than legislation.

**Jamie Greene:** I will continue on the same topic. We have been having a conversation about it as middle-aged adults. Is there perhaps a sense of naivety in our discussion, given that there is a huge amount of normalisation of such behaviour among young people? We know that from speaking to parents, teachers and, of course, young people themselves when we do visits to classes in schools. Sometimes we engage in conversations about the realities of life as a young person. I have not been a young person for a very long time, but some of the charitable organisations and other third sector organisations that are represented here work with young people on a daily basis.

Are we trying to police the unpoliceable? I am not talking about the issue of people committing horrific serious online sexual assault, exploitation and abuse. I am very interested in the subject of the peer-to-peer world and how it affects the lives of young people—in some cases, we are even talking about children in primary school, rather than teenagers. Such behaviour has become normalised because of technological advances and the fact that children have a mobile phone before they get to primary 1. I did not get one until I was 17.

The world has changed hugely over the past decade, and I wonder how realistic we are being in having such conversations and in our messaging and education. Does there need to be a reality check at our level among politicians, stakeholders and policing as to whether we are taking the right approach on the issue? Are we attempting to police something that is simply unmanageable? Should we be thinking differently about how we

deal with it? I simply chuck that out there; I do not mean to be controversial.

Let us start by hearing from some of the children's charities.

**Daljeet Dagon:** I think that you are spot on. None of this is new behaviour; it has been exacerbated by technology, but it is not new behaviour. I would like to think that it was not that long ago that I was a young person, but it is. One thing that I often say when I have this conversation with practitioners is that, if I think back to then, sharing consensual imagery in a consensual environment was the norm when I was growing up. The only difference was that it involved a disposable camera and, depending on how much money you had and whether you had the money for the express service or the seven-day service, there were opportunities to intervene before those images were collected from Boots and shared, whereas now for young people it is a case of, "Aye, all right—I'll do it," they click the button and then they think, "I wish I hadn't done that."

It is interesting that we have spoken a lot about girls today. From the conversations that we have had with boys, there is a sense that they are often excluded from such conversations—it is almost as though these things do not happen to them—which makes it even harder for them to discuss the issue and to share what is happening to them. Boys feel underrepresented in those conversations.

Certainly, from a young person's perspective, we have had people say that it is better to get it over and done with, because if you do not consent to an image being shared, you simply get pestered again and again, which is worse than sharing the image in the first place because, that way, at least it is over and done with. When a young person first told me that, I was shocked—I thought, "Wow!"—but, at the same time, I could also understand the pressure of such constant, almost bullying behaviour. It is so much easier just to get it over and done with. Sharing in such circumstances has become the norm, but these are not new behaviours.

Another point to make from a young person's perspective is that we need to stop talking about the online world. It is an integrated world for young people. They do not differentiate between what is happening in the digital world and what is happening in the physical world—it is all one thing. We need to get our heads around that in the language that we use. There are gaps, but in the work that we do in the future, we need to think of online as being part of any strategy that we come up with. I commend Martin MacLean for chairing the online child sexual abuse and exploitation group, but the issue is how we integrate that work into the wider world.

Earlier, there was a discussion about whether the Scottish Government is doing enough. From our organisation's perspective, we often have the same conversation with different parts of the Scottish Government directorate. We need to bring all the directorate together, and that is what we will be doing in a couple of weeks' time. Instead of having separate conversations with colleagues about the online safety plan, trafficking, child criminal exploitation or contextual safeguarding, we need to bring those governmental people together and say, "We're talking about one thing. The spaces and places can be different and how we look at it might be different, but we need to have one strategy, rather than the individual silo working that we have now."

**Jamie Greene:** Thank you—you make an interesting point, which touches on the one that Stuart Allardyce made about the language that we use and the need to not put young people off coming forward when there are actual issues, as opposed to day-to-day behaviour that they do not deem to be inappropriate, for example.

Who is best placed to get that message across? Should teachers do that in the classroom? Should it be done peer to peer? Is it a case of educating parents on how to have very frank and normal conversations about these things without being embarrassed? Given that, as you said, we are in an integrated world where Snapchatting in the playground to someone who is 3m away is normal behaviour, when we are putting together all these wonderful strategies and getting Governments to come together and legislate for change to improve things, surely a grass-roots approach that involves talking to young people on the ground at the earliest opportunity is the best way to get positive messages across on how to deal with problematic situations.

I will bring in Joanne Smith, because she probably has a lot of experience in this area.

**Joanne Smith:** You touch on a critical issue. It is vitally important that we recognise that children are the experts in this space. We increasingly understand the value of co-production in policy development and the participation of children in developing constructive solutions to the problems that they face. Nowhere is that more important and relevant than in the policing of the online space. Bringing children's expertise into the development of regulatory processes is critically important. They understand the emerging risks that they face. They are at the forefront of the new challenges and the rapidly changing context, and they must be central to the decision-making process.

We are supporting an amendment to the Online Safety Bill on the creation of a user advocacy body for children. That is about creating a mechanism to bring such expertise right into the heart of

overseeing the implementation of a new regulatory regime so that children test out whether the measures that are to be put in place will strengthen protections for them or otherwise. The user advocacy body would have similar advocacy powers to something like the citizens advice bureau model. We think that there is a real gap as far as children's voices are concerned—they are largely absent from the Online Safety Bill as it is currently drafted, and we feel that it is critically important that their experiences are incorporated to make sure that they inform how the new measures are rolled out.

I completely agree with that. The proposed user advocacy body is a step in the right direction to make sure that we respond swiftly to emerging risk and that we manage risk on an on-going basis.

**Jamie Greene:** Thank you. I will perhaps come back in later.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Good morning. I will direct my first question to Wendy Hart and possibly Martin MacLean. We have spoken about the huge increase in the figures that you have for recorded online child abuse. Do you have any notion of, or can you even hazard a guess at, the actual level? You are talking about recorded levels. I know that it is a difficult question, but how much more online child abuse do you think is going on that is not recorded?

**Wendy Hart:** That is a difficult question to answer.

**Rona Mackay:** Yes, I understand that.

**Wendy Hart:** As you said, there have been increasing numbers of online reports. Last year, the National Centre for Missing & Exploited Children, which Martin MacLean referred to, received 316,900 industry reports and referred them to the UK. That is a slight increase on the year before. The NCA has estimated that there are likely to be between 550,000 and 850,000 people in the United Kingdom who pose varying degrees of sexual risk to children, including contact offending and online offending in its various forms. That is our best estimate at this time of the scale.

**Rona Mackay:** It is quite a wide range.

**Wendy Hart:** It is quite a wide range. It is a difficult topic, because it is an estimate. We are working to refine that estimate and to understand the threat better, but we think that it is consistent with the numbers that are seen in other western countries. We are not different in that respect. It is simply that we have tried to estimate it using the intelligence that we have. It is a large number.

**Rona Mackay:** Does there need to be a larger public awareness campaign directed at this

subject? Is that an on-going need? Do we need to increase the public's awareness of the subject?

**Wendy Hart:** There has been an increase in public discussion recently and events such as today's discussion are important for that. I agree with colleagues' previous comments. There is no real distinction between the online and the real world any more and, as we have discussed, children do not make that distinction. Educating adults around the threat is particularly important, and educating adults—parents and carers—on how to talk to children about the issue is critical.

The National Crime Agency has an education section, which is the child exploitation and online protection—CEOP—education team. We produce materials that are to be used by parents, carers and teachers on how to talk to children about the online threats. With our unique engagement and understanding of those threats, we are able to respond to emerging threats and to address questions such as how to talk to your child about the dark web and what it is; how to talk to them about sharing images and the risks of doing so; and how to talk to them about keeping themselves safe without putting the onus on children and victim blaming. It is really important to have that education angle.

11:00

That is only one part of education, and it will certainly never be enough for the entire country, although there was a significant increase in the number of downloads of that material during Covid in particular. I absolutely agree that there needs to be wider education on the subject, but that needs to be done in a multi-agency way, understanding how Government can intervene at different opportunities.

**Rona Mackay:** Alison Penman, in your statement, you mentioned the bairns' hoose approach. Could you expand on how that will help you to support offenders and victims?

**Alison Penman:** We need to have an on-going discussion about how children who behave harmfully towards others fit into that environment. We have not come to a conclusion on that yet; further discussion is needed. When children behave harmfully towards others, that behaviour comes from a place of trauma, so those children are entitled to, and need, trauma support and recovery for their behaviours. If we are talking about a preventative strategy, we need to support children now so that they do not become the offenders of the future. That is what we want to do.

In relation to the previous point about the normalisation of such behaviour, is that what we want for our children? From a children's rights perspective, is it good enough that children feel

unsafe, whether it is online or in the real world at school? If you were to ask children in school to say what they felt least safe about or what they needed protection from, it is unlikely that they would talk about extrafamilial or intrafamilial abusers; they would talk about one another. If they do not feel safe in school, they will say that bullying is the thing that scares them most.

We should not normalise that; we should be striving to do more. It is about our messaging. I do not know whether people have seen the Vanish advert that features a girl who has autism. That advert was developed by a company, but some of its messaging brings these things home for teachers, too. A lot of our teachers might be a little out of their depth in thinking about some of these issues. Children know and understand this, so we need to consider how we can implement strategies that allow children to say, “No—this is not good enough. I will not accept this”. How do we support that? You asked whether it is about schools, peers or parents and adults; it is about everybody and everything.

**Rona Mackay:** You are saying that we should be empowering children to say no and to take control.

**Alison Penman:** If we are to take a child’s rights-based approach, that is what we want for our children. We should not accept a situation in which they are coerced into sharing images or feel that they have to get it over and done with. Is that good enough for Scotland’s children? No.

**Rona Mackay:** That is helpful.

Stuart Allardyce, how do you evaluate your success? I know that that is a very bland question, but how can you evaluate the outcomes from the work that you do?

**Stuart Allardyce:** Our UK helpline is funded by the Home Office and the Ministry of Justice. Each year, as a condition of funding, external evaluation is provided. That evaluation has taken different forms. Agencies such as Kantar and BritainThinks have been involved in those evaluations.

One of the evaluations looked particularly at our work with unarrested offenders. Survey work was done with them, and there were anonymised interviews with individuals. A key question that people were asked was whether, after they had engaged with Stop It Now!, they did things differently and stopped their offending behaviour. In the majority of cases, people made tangible changes in what they were doing, whether it was talking about their behaviour with a partner, restricting their access to particular things online or making particular lifestyle changes. We therefore know that prevention makes a difference.

**Rona Mackay:** That is interesting. I might have missed this in your opening statement, but can you give us an idea of the gender balance of the people whom you support? Is it mainly men or women?

**Stuart Allardyce:** The Scotland team works with about 100 online offenders every year. Generally, we work with perhaps one or two women, and the remainder are men. It is predominantly a male issue.

**Rona Mackay:** Thank you.

**Detective Superintendent MacLean:** The totality of the threat report that was done by the NCA looked not just at online child sexual abuse and offending but at wider issues. However, generally speaking, 80 per cent of perpetrators of sexual abuse and crime are male and 80 per cent of victims are female, so it is a heavily gendered issue. In relation to indecent images of children—this relates to the point that Daljeet Dagon made—there is an increased level of male victims compared with the wider subset, which is interesting.

**Rona Mackay:** That is interesting.

**The Convener:** A couple of members still want to come in, but I want to pick up on the discussion about data, which is an issue that the committee talks about quite a lot. I am interested in your views on what data we should collect to underpin the work on tackling gender-based violence or, in this case, tackling the online space. How do we do that when there are a lot of moving parts and different organisations have different roles and responsibilities relating to the overall work that is done? It would be helpful for the committee to understand how that underpinning data set could be developed.

**Wendy Hart:** The recent His Majesty’s Inspectorate of Constabulary and Fire and Rescue Services inspection of online CSA, which applied to England and Wales, highlighted the challenge relating to better management of information and data, which relates precisely to your question. We work with policing colleagues throughout the country—particularly with Ian Critchley, the national policing lead in England and Wales—to understand how to better collect data from law enforcement. That is absolutely one aspect.

There is some journey to go because of the different data systems, the different legacy systems and the different ways of recording crime across the United Kingdom. We definitely need to work on that, and we work with Scottish partners as part of that conversation.

With regard to the future, under the Online Safety Bill, the National Crime Agency will have a role as a designated reporting body for CSA



content that has a UK locus. That will give us a much better understanding of the UK nature of the threat and will, I hope, inform a better strategic assessment of totality. Ofcom will, of course, have its own information-gathering powers and will be able to ask companies what is required. That will certainly be an important step forward for us in being able to understand in more detail CSA reporting in the UK.

**The Convener:** There is an escalating issue and challenge, so we need to think about how to direct resources to address it.

**Detective Superintendent MacLean:** I have quite a lot of statistics in front of me. Sometimes, I have to stop myself becoming immersed in them and try to keep an eye on the bigger picture. Although the basket of online child sexual abuse crimes that I mentioned is up 6.6 per cent on a five-year average, crime involving indecent imagery is up 18 per cent on a five-year average, which is a much more significant increase.

Through the enforcement activity that I described, we keep a weather eye on how many perpetrators are existing registered sex offenders or archived registered sex offenders, which tends to be about 10 to 12 per cent, and on how many of the offenders we arrest are children under the age of 18, which is about 14 per cent of the 489 arrests. We have quite a lot of data that we use to inform what we do, and we take feedback on board.

We have had instances of younger people being arrested who had called Stuart Allardyce's team and of young people being liberated by undertaking to appear at court late on a Friday, for example, or, if it was a public holiday weekend, at a Saturday court. We have undertaken to take enforcement measures earlier in the week so that people do not step out on a Saturday when there is a lack of services around them, which might not be the case at other times.

There are lots of facets to the data. For example, we also keep a weather eye on the issue of suicide of perpetrators and victims. We do not see significant trends in either aspect, although we see quite regular suicides of perpetrators at various trigger points in their journey after their arrest. It can be immediate, but it can sometimes be quite a bit down the line, when court dates are set or there is the anticipation of appearing at court. We monitor that. We have worked with Stuart Allardyce to do what we can to mitigate that risk whenever possible. I have taken a bit of a scattergun approach, but that shows you the stuff that we try to keep an eye on. There are so many facets to the issue.

I will pick up on the points that were made by Jamie Greene and Alison Penman. I have

scribbled down some notes. It is everybody's job to keep children safe. Teachers and parents absolutely have a role in that regard, but we all have a professional responsibility, too. Pauline McNeill mentioned the child protection system and the IRD process, which is a cornerstone of our system. That system is very good at assessing risk, making pragmatic decisions and not rushing to criminalise young people unnecessarily. I want to give the committee some reassurance about that from a police perspective.

On the point that Daljeet Dagon made about online and offline, we have talked about that issue a number of times at the MAOCSAE meetings. Young people just live their lives; they do not think about it as online and offline. I get vexed with the notion of a hierarchy between contact offending and online offending, because the intensity of the invasion of privacy into somebody's bedroom can be significant, given the inescapability of online criminality at times. I sometimes refer to in-person offending. If someone is being abused on a live stream, that is near as damn it in-person offending. The perpetrator might not be physically in the room, but some horrific offending and abuse takes place through, in particular, live streaming. It is therefore unhelpful to create a hierarchy between contact offending and non-contact or online offending.

**The Convener:** Gosh, thanks very much. That brings in a whole other discussion about resourcing.

Stuart Allardyce, how can we make our collection of data as robust and targeted as possible?

**Stuart Allardyce:** As other witnesses have said, the problem is complex, so we need to take a multidimensional view on what a data set should look like. Indeed, some work of that nature is done in Scotland. We provide data directly to Martin MacLean and his team to help with the development of a Scottish threat assessment.

It is perhaps best to think about the issue as an iceberg. Recorded online sexual crime is just the tip of the iceberg, as NCA colleagues have pointed out. According to assessments, the threat is massive. In fact, most of the population-based studies that ask questions about people's online behaviour tell us that between 1 and 2 per cent of males have looked at illegal images of children. Such statistics are shocking.

We need to clearly map recorded sexual crime and to consider reports from tech companies and the NCMEC data that was mentioned earlier. From the stuff that we pass to Martin MacLean, for instance, we know that 12,000 individuals used our online platforms in Scotland because they were worried about their online sexual behaviour.

We can provide some granular data on where those people are geographically, but we cannot provide a lot more than that.

11:15

That is important because—I will quickly throw this in here—there is sometimes an assumption that those involved in online offending are motivated paedophilic serial offenders. However, from working day in, day out with people who commit offences, we understand the different pathways that lead to such behaviour. Generally, there is a shift towards more transgressive and, indeed, illegal material over time. Those individuals, who often view large amounts of legal pornography initially, shift towards more illegal materials.

If we think about it as a process—this goes back to the points that were made earlier—there is enormous scope for public awareness campaigning. If you are worried about your behaviour, you can do something about it, which is why the data about people who seek help in some way needs to figure in any data set that exists on this particular problem.

**The Convener:** Thank you. There was a lot in that answer.

**Russell Findlay:** Social Work Scotland's submission talks about the Scottish Government's statistics on child protection register data. Right now, that does not include specific data on online harm, abuse and grooming. Is it in discussion with the Scottish Government to include that data in some way?

**Alison Penman:** That is not in discussion at the moment, but it is perhaps something to think about. We know that there is probably underreporting and a lack of recognition of all forms of sexual abuse and sexual harm, so it does not always come through the child protection processes in the way that it should. That is recognised at the national level in our learning and development programme for social work staff. Training on sexual abuse is a priority across Scotland.

Sometimes it is about thinking the unthinkable. Particularly if harm is taking place within a family, or even an extended family, and particularly if that family happens to have a professional or middle-class background, it is quite difficult for people to acknowledge and to think about the horrors that are sexual abuse and sexual harm to children. There is a psychological approach to that. It is a priority in training, learning and development. Further work could be done to look at that. We can take that away.

**Russell Findlay:** Thank you.

The Social Work Scotland submission also has some interesting stuff about children giving evidence outwith a court environment and the development of the Scottish child interview model. I note that the project team was first set up in 2017, so there has been almost six years of work. The submission goes on to say that the model is being implemented across all areas in Scotland. Do you have any more detail about when, what stage it is at and whether it is universal?

**Alison Penman:** I do, although Martin MacLean might be better placed to respond, because he chairs the national governance group. It is interesting. When Martin MacLean was speaking before, I thought that I should have spoken about the Scottish child interview model in my opening speech. Amazing progress is being made in the implementation of that across Scotland. Martin, as the chair of the national group, do you want to speak about that?

**Detective Superintendent MacLean:** I co-chair the national joint investigative interviewing governance group alongside a Convention of Scottish Local Authorities colleague. Funnily enough, there was a meeting of the group yesterday.

On the current position, to answer your question, you are right that the project team was set up in 2017. The first two years of that work involved developing the new training course. To quickly put that in some context, there was previously a five-day training course for police and social workers to effect a joint investigative interview of a child in a child protection context. That is now almost a six-month training programme comprising five modules, with the best part of five weeks of face-to-face training and both pre-reading and post-modular work for the students to complete. The course represents a significant enhancement in our investment in how we interview the most vulnerable witnesses and victims in society.

Since late 2019, a succession of initial cohorts has been trained for various local authority and policing partnerships around the country. We now have—you are testing me here—10 policing divisions, 22 local authorities and nine or 10 health boards. Forgive me for not quite having that off the top of my head. We are probably about 80 per cent of the way there. The initial funding for that team is due to expire in March 2024.

Some of those areas are smaller than others, naturally, and some manage to effect nearly 100 per cent of their joint investigative interviews of children using the new Scottish child interview model. Other areas are much bigger and have been able to access only one cohort of trained individuals and are working towards full installation of the SCIM.

**Russell Findlay:** To understand the stats, will the remaining 20 per cent be part of that funding as well?

**Detective Superintendent MacLean:** Yes. By the conclusion of springtime 2024, there will be SCIM-trained officers in all local authority and police divisions of Scotland.

**Russell Findlay:** That will be policing, but is there additional training for health boards and social work?

**Detective Superintendent MacLean:** Health boards are involved in the IRD process, which is critical to the commissioning of a joint investigative interview, hence the reference to them, but only police officers and social workers attend the training and effect the interviews.

**Russell Findlay:** There is another interesting thing in the child protection statistics. In Scotland, 22 children per 100,000 are on the child protection register, but the figure is significantly higher elsewhere in the UK—it is 43 in England, 45 in Northern Ireland and 52 in Wales. I do not quite know what to make of those figures. I do not know whether they mean that there is an overly cautious approach elsewhere and children are being added on grounds that would not be used to add children in Scotland or whether they mean that Scotland is sometimes not adding children when they, arguably, should be added. It is such a stark difference. I do not know whether that question would be for the NSPCC or Barnardo's or Social Work Scotland.

**Alison Penman:** It is difficult when you look at statistics on child protection registration, because it is difficult to understand what they mean and they mean different things to different people. To be clear, child protection registration does not on its own protect children. It is the professionals and the family around the child and the planning around the child that offer that protection. Interestingly, you will be aware that England did away with its child protection register and now refers to children subject to child protection plans.

The figure is an average. You will see huge variations around the country at any given time. That can be because of a number of different factors. If there has been a publicised significant case review or child death review, you will automatically see an increase in child protection registration statistics around that.

We spent quite a lot of time examining our child protection registration statistics during Covid, because it was interesting to see what was happening. Were more children at risk? Were fewer children at risk? Did we know that children were at risk? Some of you will have read some of the horrendous child death reviews that there have been; there have been convictions particularly in

England and Wales of late, all of which related to deaths that happened during Covid. There were some increases in child protection registration during Covid. It can vary. It can also vary across the local authorities in Scotland, particularly between rural areas and urban areas.

**Russell Findlay:** There was a case in 2014 in which a child died in West Lothian: baby J. I have raised the case on a few occasions. Social workers and a nurse attempted to put the child on the child protection register and others decided that he should not be. What went wrong and why that happened is still not clear, but I suppose that it illustrates the point that you are making, which is that this can happen with or without registration.

**Alison Penman:** Interestingly, the Scottish Government removed categories of registration a few years ago. We still gather statistics on the type of harm that children experience, but it is difficult because there are a number of different risk indicators and the question is whether you measure in relation to the type of harm that the child experiences or the type of behaviours that adults around the child exhibit that cause the child to experience harm. That means that even our statistics are not easily explainable when we look at them, because people measure things differently and put different interpretations on the information around registration.

The national guidance from 2021 should have clarified some of those points and it took on board learning from a number of significant case reviews to try to make it as straightforward as it is. Again, I think that in Scotland we should be proud of the interagency referral discussion. It is a robust model. It means that we get information from all relevant parties immediately; the same day the concern comes in, we are making sense of that. There is a national group that is in the process of developing training on IRDs; the police have always had that training, but it is bringing social work and education colleagues on board.

A lot of that is about the analysis of risk. How do we make sense of risk? How do we understand the impact of the harm in a way that allows us to predict the possibility of that harm happening again? There is a lot of work nationally through the implementation of the national CP guidance.

**Russell Findlay:** That is helpful. Thank you very much.

**Detective Superintendent MacLean:** I have a couple of quick points to add. Alison Penman has opened the door already.

An effective IRD, with effective decision making, risk assessment and safety planning, can almost prevent a child having to go on the child protection register by the time what used to be called a child protection case conference and is now called a

child planning meeting comes around. Sometimes that gets lost in the mix. Looking at the CPR figures alone is a bit binary.

In England and Wales, we have championed our work on SCIM and the IRD through the National Police Chiefs Council child protection abuse and investigation working group—it is a clumsy title—which I sit on, representing Scotland. A number of people have come north from the Metropolitan Police and the Police Service of Northern Ireland to look at our processes, particularly on the back of the national child safeguarding practice review into the murders of Arthur Labinjo-Hughes and Star Hobson. I remember ticking off some of the recommendations that came from that and thinking, “That is IRD, if it works well.”

I understand what you say about the comparative figures, but they need to be put into the context of the wider systems. We are in a healthy place.

**Russell Findlay:** That makes sense. Thank you very much.

**Collette Stevenson (East Kilbride) (SNP):** In several of your submissions, you have mentioned indirect victims. Stuart Allardyce, in your submission, you say that better outcomes need to be promoted for indirect victims. Could you elaborate on that and explain what an indirect victim is?

**Stuart Allardyce:** Yes. We work with partners and family members of those who have been arrested for online offences. Probably about half of the individuals we work with every year who have been arrested for an online offence are in relationships and have a partner. A significant proportion also have dependent children.

Usually, the partner is completely unaware of their husband or boyfriend’s behaviour and the first time they know of the offending behaviour is when the police arrive, quite rightly often in large numbers because there is a forensic investigation of devices in the house at the time. Four, five or six police officers can arrive, often early in the morning to make sure that everyone in the household is there. That can be incredibly distressing for partners, children affected in those families and other family members.

Let us remember that, when somebody is arrested for an online offence, they are likely to have a mother and a father, brothers and sisters, and colleagues and friends in the community. Those who are indirectly affected, particularly those who are close to a loved one who has been arrested, will often experience social stigmatisation and lots of guilt and shame themselves. The piece of research that we published last year suggested that, in a survey of

120 partners of online offenders, around 60 per cent described some symptoms relating to post-traumatic stress disorders. They have significant support needs.

We facilitate a group with Police Scotland and Social Work Scotland to look at improving outcomes for family members who are affected by this, and that group has been running for about six months now. It is inevitable that the group will make some recommendations about proper resourcing of support for family members in this space.

11:30

**Collette Stevenson:** It is interesting, because we were at a Families Outside event last night that was hosted by Rona Mackay. The panel touched on the impact that it has when a person is imprisoned: the stigma and even the cost involved. Families Outside has done a fantastic report, “Paying the Price: The Cost to Families of Imprisonment and Release”. Stuart Allardyce—I am doing a bit of networking here—have you worked with Families Outside or could you link in with that?

**Stuart Allardyce:** We have been working with Families Outside for about eight or nine years now, partly because, when it was running its helpline it was receiving calls from family members about individuals who had been arrested for sexual offences. At times, the helpline staff felt unequipped to respond to those kinds of issues with the high levels of shame and stigmatisation. We have continued to provide support to Families Outside for several years.

**Collette Stevenson:** That is good to know. Thank you.

My other question is on the Online Safety Bill. The bill seeks to make social media companies legally responsible for keeping children and young people safe online. Do any of you have any views on whether that will be feasible? What will that look like? Is the bill robust enough to achieve those aims? Are significant amendments required?

**Wendy Hart:** I will not comment on the substance of the bill, as it is going through Parliament right now, but, on feasibility, there are specific requests and requirements for the National Crime Agency. We work closely with Ofcom to understand how it will seek to fulfil its responsibilities and duties under the bill, including the publication of codes of conduct that will guide social media companies and other companies on the scope of the bill and how they are to fulfil their responsibilities. We are working very closely with the Home Office and Ofcom to understand the scope of the designated reporting body, as I

mentioned earlier, which is the specific requirement that the National Crime Agency will fulfil. We are working hard to meet the deadlines. If the bill comes into force relatively soon, we are working very hard to meet the deadlines for that.

It is not a small undertaking to create an online reporting centre, but we are being supported by the Home Office with funding to take that forward. That is probably all that I can say right now. It is hard, because the scope of the bill is not yet set and there is scope for change, and we have to factor that into our design.

**Joanne Smith:** I will come in on the point about making sure that the bill has teeth. It is massively complex and, inevitably, that means that accountability is everybody's responsibility and nobody's. There are measures in it that could provide the strength and accountability mechanism. We are supporting the amendment to introduce senior manager liability. That has proved to be a successful tool to drive culture change and behaviour change by making senior managers accountable for the failure to take appropriate steps to keep children safe online.

The amendment would make managers accountable where there is evidence that they have failed to take steps to prevent children from seeing harmful content, but we argue that it does not go far enough, because there is not the same accountability embedded in the proposals, as currently drafted, for the most pervasive stuff around grooming, sharing of images, shading and breadcrumbing and those types of things. Therefore, it has the potential to be a robust tool. We saw that, when senior manager liability was introduced in construction, for example, the numbers of deaths and cases of serious harm dropped dramatically as soon as people had the responsibility and the buck stopped with them for making sure that protection was put in place. Therefore, it is an effective tool but, as it is currently drafted, it does not go far enough. We would like to see it strengthened to cover the suite of risks to children so that we can have confidence that it is an appropriate vehicle for driving the culture change that we need to see across the tech sector.

**Collette Stevenson:** TikTok, for example, is hosted in China. How would a senior manager liability clause be applied? How would it be applied in the case of TikTok, which is based in another legislature and another country? Wendy Hart, do you want to come back in on that? How feasible is that? I know that you did not want to touch on the bill, because it is still going through, but these are questions that everybody needs to hear answers to.

**Wendy Hart:** It is an important issue. TikTok has offices in the UK. It is yet to be determined at

what point that senior management liability kicks in. We would seek more discussions with the Home Office to understand the nature of that particular liability. That is all that I will say now.

**Collette Stevenson:** Do the witnesses' organisations work or collaborate with TikTok or Facebook currently?

**Stuart Allardyce:** Yes, our UK charity has worked with a number of online platforms. Probably the first was Google, which we worked with about seven or eight years ago to develop warning splash pages: if you put particular search terms into Google that suggest that you are looking for illegal imagery involving children, you will get a splash page coming up saying, "It looks like you are looking for illegal images of children. If you have something that you want to report about an image, here are the details for the Internet Watch Foundation. If you are worried about your own online behaviour, you should contact Stop It Now! and here is how you do that."

We have been running those splash pages for some time. We have also worked with Facebook on them. We have had some discussions with TikTok. Rather bizarrely, some of the online platforms that have been most proactive in wanting to work with us have been adult entertainment platforms. We have worked with Mindgeek, which is the owner of Pornhub, for the past two years, developing warning pages with them, and we have worked with the Internet Watch Foundation, launching a chatbot that approaches people online who are looking for illegal material on Pornhub and some of the other platforms.

We have seen an openness on the part of tech companies to work with child protection charities such as ours. Indeed, we are doing a project at the moment to scale up some of the work with warning pages. However, it is safe to say that there is still an enormous distance to go here.

**Daljeet Dagon:** We have had a similar relationship with some of the companies that Stuart Allardyce has mentioned. Interestingly, the ones that we struggle to engage with are Twitter and Snapchat. They are the two that do not come to the table to talk. As Wendy Hart and others have said, people are working incredibly hard and we still work with hope that we will get it over the line, and we have cross-party support for some of our amendments as well. Therefore, there is still time, but it is getting extremely hard when you have some key partners that are refusing to come to the table to talk to you.

**The Convener:** Before I bring in Jamie Greene, I will come back to Collette Stevenson's earlier questioning on the impact on victims' families. I would be interested, Daljeet Dagon, to hear a little bit about the work of Barnardo's on supporting

children, whether they are victims or are, as Alison Penman mentioned in her opening remarks, becoming perpetrators—for want of a better word—in their own right. What are you seeing in Barnardo's on that?

**Daljeet Dagon:** We have spent a bit of time—particularly with our centre of expertise that is based in England and Wales and funded by the Home Office—trying to understand the scale and nature of the issues and the barriers for practitioners to have conversations. Practitioners often see a lot of the signs and indicators that give them cause for concern, but we seem unable to take the next step and have that conversation. We have been doing a lot of work on building practitioners' confidence and resilience around signs and indicators, and also communicating with children. I reinforce the point that it is not children's responsibility to say, "Guess what, guys, this is what is happening to me." It is about us being able to identify from behaviours and not just conversations.

We have spent quite a bit of time trying to upskill practitioners on how we can have those conversations, because sexual abuse more broadly is something that we struggle with—never mind thinking about it from an online perspective. We have not been very good at that.

Going back to the earlier conversation about child protection registrations, I take on board everything that people have said on that caveat about how we record and the fact that children might not be registered because other measures have been put in place. However, we have tracked the last 10 years of registrations in Scotland, and our registrations for child sexual abuse have not changed. It was 9 per cent in 2012 and it is 8 per cent in 2022. However, our registrations for emotional abuse, for instance, have rocketed. We need to think about those connections and about how we try to build workers' confidence to ask questions about what else might be happening, other than what they are initially responding to.

On impact, we have, alongside the Lucy Faithfull Foundation, produced a resource recently that looks at a whole safeguarding response to online behaviours that takes into account the impact on those who have had no knowledge of what has been happening. Even when there is, as Stuart Allardyce described, the knock when multiple police officers come to a house and take away devices, people need to understand that that includes the smart TV and all the devices that belong to the children and young people as well. It is not just about the devices that the offender has sole and exclusive use of. Such events have a huge and significant impact.

The other thing that we have not talked about is that people get a lot of support online as well. If we

take that support network away, that has a huge impact. We need to think about how we build the resilience of workers to feel confident about having conversations so that they are proactive about it, rather than waiting for children.

Joanne Smith made reference to the fact that children will talk to other children and young people. We need to build the resilience of other young people to have the confidence to be able to share concerns and worries. We spend a lot of time building up the network of support around children and we recognise that that can be a number of people. It is not necessarily about targeting, but about a holistic approach.

**The Convener:** Thanks, there was a lot in there. Some of our other panel members might like to come in briefly.

**Alison Penman:** From a Social Work Scotland perspective, we totally appreciate exactly what you are saying about encouraging children to talk and delving a little deeper to look beyond the presenting concerns. That is relational practice, which is what I said we should all be striving for when I last appeared before the committee. However, you will find that teachers and social workers really struggle to have the time to build those relationships and get down underneath.

Social Work Scotland produced the "Setting the Bar 2: Taking the wheel" report, which identifies that to have the meaningful relationships that would allow you to have meaningful conversations, social workers should have no more than 15 children on their case loads, but that is not happening anywhere in Scotland. Likewise, if you were to ask teachers how much pupil support time was scheduled into their calendar, they would tell you that it is very little.

The main point is that you want to be able to respond when a child is ready to speak to you, but our environments do not always support that, because of the resources that are not in place. It is about building relationships of trust, which takes time and requires the resources that, unfortunately, we do not have sufficiently currently.

11:45

**Daljeet Dagon:** When we ask children what makes a difference, they tell us that it is when someone notices and asks the question. You do not necessarily need to have a long-term relationship for that. Social workers and teachers need to have the confidence to reach out to other partner agencies that are able to offer some of that support. As people have mentioned, working in partnership and collaboration is important. We need to recognise and understand each other's roles and try to prevent children having to tell their story multiple times to different people. The

Scottish child interview model is very much part of that.

**The Convener:** Thanks very much. There is a lot to think about. Martin MacLean wants to come in at some point, but first I will let Jamie Greene come in with his question.

**Jamie Greene:** There is so much that we could talk about and not enough time. I will throw my questions out there and if you want to answer one, just grab my attention. That way, not everyone has to respond.

Does anyone on the panel have a view as to what role artificial intelligence could or should have in the blocking, sharing or forwarding of internet imagery on any platform, where the sender or receiver is known to be a young person? That is a very specific question and I presume that dealing with it would require legislation of some sort at the UK or Scotland level.

My other question is to ask your views on the perceived increased exposure among young people to pornography and sexual imagery, and the fact that it is so much easier now to self-generate content on platforms such as OnlyFans, for example—there are others, so I do not want to pick any specific one—where it is possible to quickly and immediately monetise content of a sexual or intimate nature, with a view to make money or to increase one's popularity among peers in a society where being an influencer is, apparently, a career these days? Has there been a massive shift in young people's perception about that type of content? That question probably links into my earlier line of questioning. Wave your hand if you want to talk about any of those issues.

**Stuart Allardyce:** To take the second question first, it is a good point. We are aware of 16 and 17-year-olds who have been involved with OnlyFans and the commercial economy that is generated by those platforms, which are a driver in exploiting young people. We are a child protection charity, so we do not pay a lot of attention to what happens to people after the age of 18, but there may be a bigger issue sitting underneath what you are saying, which is the pornification of society and children more generally.

The key documents on this are the reports from the Children's Commissioner for England that have come out this year, which have shown that young people are, on average, being exposed to pornography for the first time at age 13. However, we have children aged 11 and 12 who are being exposed to such material in fairly large quantities as well. By the time those young people get to 16 and 17 and become aware of OnlyFans, you can see that a certain trajectory has been set up.

The take-home messages are that we begin to resolve some of the stuff around OnlyFans by

being able to have meaningful conversations on pornography with children and young people, at the right stages, in school settings. That is what young people are telling us. We also need to be clear that the teeth in the Online Safety Bill on age assurance will absolutely work in this space.

I do not want to go into the stuff on AI, but police colleagues could maybe pick it up. There is some work being done in that area. In particular, Canada has developed a web crawler called Project Arachnid that has been running for several years and does precisely what you are describing.

**Detective Superintendent MacLean:** I do not think that dealing with the issue would need legislation. Any private company could use and deploy such AI as it saw fit for the greater good if it chose to do so, and that would not require legislation.

**Wendy Hart:** We are doing some more work to understand AI, the risks it poses and the opportunities that may become available to us. I would not call it future tech, because it is here now, but it is not the only piece of technology that we are looking into. There is also the metaverse, the use of haptic suits, which give a much more visceral experience of being in an online space and present particular threats for the CSA. We are looking at a range of technologies and how they may affect and manifest in the CSA space.

It comes back to the importance of safety by design, which was mentioned at the beginning of the session, and the importance of companies having responsibility to design spaces that are safe for children.

**Jamie Greene:** That is very interesting. By its very nature, AI is designed to create unnatural fantasy environments that have not hitherto existed in the real world. That could definitely be problematic in some circumstances.

**Daljeet Dagon:** I want to come in on your latter question. From a Barnardo's perspective we see an increase in pornography right across our services. As Stuart Allardyce has mentioned, it is very young people. We have seen it involve 11, 12 and 13-year-olds and we are extremely concerned about the impact on mental health, and we are also concerned about young people's understanding of what it is and what constitutes a healthy and respectful relationship.

It is interesting that OnlyFans is now getting attention. We came across advertising websites such as Locanto, where children were being encouraged to advertise on site. In the context of the cost of living crisis, coupled with the impact of fuel poverty and food poverty, we have seen young people who have actively gone on those sites in an attempt to make money. They have

been very vocal about that, and it is one of the difficult challenges that we find online.

Such sites have significant reach to young people and provide them with income opportunities that we cannot provide them with. We need to think about that, and we need to think about how we can respond to young people in terms of harmful behaviours, rather than criminalising them. I know that colleagues in the police are working hard not to criminalise, but that is against a backdrop of the media that want to criminalise children for some of those behaviours. It is tough.

**Jamie Greene:** It is fascinating and we could probably have a whole-day symposium on that subject alone.

I have one final question. I feel a bit like an audience member on “Question Time” with this one. What does the panel believe would be an appropriate level of sentencing for someone who is charged and prosecuted for possessing indecent images of children? I will start with the police.

**Detective Superintendent MacLean:** It is not a matter for policing. Wendy Hart and I had a discussion about sentencing yesterday. There is arguably an increased vexedness in England and Wales about the matter from a policing perspective. Of course, privately, individual officers might have a view on what is an appropriate sentence. In the main, do we see lesser sentences in Scotland, in terms of years in jail, across a range of offences in contrast with England and Wales? Yes, we do. Is there a reason for that? There must be.

The backgrounds of individual perpetrators are wide and varied and need to be taken into account. Other bodies will introduce guidance for sentencing. It is not for police to comment.

**Jamie Greene:** That is very diplomatic of you. The reason why I ask is that the last time a survey was done on public perception of sentencing—it was pre-Covid and I do not know whether there has been one since—77 per cent of the public believed that someone should receive a custodial sentence for a crime of that nature. Very few believed that something such as a community payback order or some form of educational mandatory statutory treatment would be an appropriate sentence.

I am not putting forward a view; I am simply asking for your opinion. I appreciate that it is difficult for policing to comment on what are independent guidelines by the Scottish Sentencing Council, but I am sure that others have a view. Stuart Allardyce, you must have a view on this.

**Stuart Allardyce:** Yes, I do not want to present a view, particularly because you are talking about an incredibly wide range of different things. At one end of the spectrum you have a 14-year-old who sends some sexual images of themselves to a number of peers who have not asked for those images—that is an offence and it probably needs to be dealt with as a legal matter as well as a child protection matter—through to an adult who has been involved with live streaming or has been involved with first-generation images, meaning that he has sexually abused a child, filmed it and put that online. We cannot have one sentencing option for all those different situations.

We can have guidelines. I know the research that you are talking about; some of that is described well in the Sentencing Council literature review on indecent images of children, which came out last year. There is a big section on public views in that. These are questions for society more generally rather than third sector organisations such as ours.

I will add one thing, which comes partly from my work as a social worker in this field, but also from my work as the chair of the National Organisation for the Treatment of Abuse, which is the main membership body for those who work with sex offenders in the UK. We have 1,300 members. The research suggests that giving custodial sentences to individuals who may be at relatively low risk of reoffending would probably make things worse for them and may make them more dangerous. The reason for that is that if you give somebody a short sentence in prison, you are not giving enough opportunity or time for them to do any direct work on their offending behaviour, and when they come out they are likely to be homeless and to have lost their job and the social anchoring that they had in the community. All those things can tip people, through stress, into going back into offending behaviour.

Although there is a simplistic answer about taking people out of society, and although we need to recognise serious offences, we also need to have a pragmatic and grown-up conversation about what we need to do to make sure that children are better protected in Scotland.

**The Convener:** Martin MacLean has a final word.

**Detective Superintendent MacLean:** This is a small point to pick up on. Daljeet Dagon, I am sorry to contradict you slightly. I want to let the committee understand how we operate currently. The taking of the televisions and all the devices out of the house will have happened in the past and will happen in the future, but one of the significant practice improvements that we have made post Her Majesty's Inspectorate of Constabulary in Scotland thematic inspection in



2020 is the uplift and resourcing of our digital forensic teams. Digital forensic staff come with us as part of the group of many people who knock with police officers and go through the door, and they triage the devices on site. In the main, on most occasions now, every turn or enforcement activity is accompanied by such officers.

There might be 10 devices in a house, for argument's sake, and two will come away if they test positive and the rest are left in situ. One of the benefits is that that lessens to some degree the impact that Daljeet Dagon described, which, as I said, will have happened in the past and will in the future. In the main, we only take the devices that prove positive on triage. That happens for a whole host of reasons, but that is one of the benefits.

**The Convener:** Thanks very much for that helpful clarification. I am going to draw this session to a close. It has been fascinating and there is a lot for us to think about with regard to the work that is clearly going on. It is welcome to hear about the commitment in and around these issues, but also the challenges and the work that is required.

Thank you all for your time today. We will suspend the meeting very briefly to allow our panel members to leave. Thanks very much.

11:59

*Meeting suspended.*

12:02

*On resuming—*

## Access to Court Transcripts

**The Convener:** Our next item of business is consideration of correspondence that we have received from the Scottish Government and Rape Crisis Scotland on access to court transcripts for survivors of rape and sexual offences. I refer members to paper 4. I will begin by placing on record the committee's thanks to one of the survivors, who we met informally in November 2021, for her bravery in telling us about her experience of the criminal justice system and for raising the important issue of the lack of access to court transcripts for survivors of rape and sexual offences and how that can impact on their recovery.

I very much welcome the commitment made by the Cabinet Secretary for Justice and Home Affairs in her letter to the committee, and by the First Minister last week, to consider a pilot to support access to transcripts for complainers in sexual offences cases.

I seek members' views on the correspondence that we have received.

**Jamie Greene:** I thank Rape Crisis Scotland for its correspondence. I may, perhaps, have a contrary view to the convener's, because I do not welcome the letter from the cabinet secretary. I welcome the letter itself but not its content.

This is an issue that we as a committee have been raising for a very long time, since the committee's inception. I am sure that this is not the first time that the issue has been raised in Parliament. Although the tone of the letter from the cabinet secretary is helpful and positive—and I do not doubt the cabinet secretary's intentions—the second to last paragraph is considerably lacking in detail. The cabinet secretary says that she is

“committed to exploring a pilot to support access to transcripts for complainers in sexual offences cases, initially. However ... it is still at the very early stages and initial discussions with the SCTS are taking place”.

I thought that those discussions had taken place. Given that this issue has been raised repeatedly by this committee and other stakeholders on numerous occasions over a prolonged period, I do not understand why the discussion is still yet to happen or is in the “very early stages”.

The letter also implies that the forthcoming Victims, Witnesses, and Justice Reform (Scotland) Bill, which is before the Parliament, may be a platform for providing a solution to this in the long term. I do not believe that we need primary legislation to resolve this matter; it just needs a bit of will and a bit of way. We have talked about this

in numerous committee meetings. We understand the financial considerations involved in improving the situation. We have heard straight from those directly affected by this, in great volume.

When you read the survey responses that were sent to us by Rape Crisis Scotland—we put on record our thanks to the victims who have given permission for those to be used—you see two common themes coming through. One is that very few victims feel like they remember their day in court, due to the trauma involved, and they believe that accessing transcripts would form part of their closure—they might be seeking justice in other ways, through civil cases and so on. Many had a difficult experience in court, many believe that they were not treated particularly well, and in some extreme cases, they believe that there were miscarriages of justice. We should take note of the language that they have used and their responses should give us more impetus to push the Government on. The comments made include things like:

“A lack of access to my transcript has hindered my ability to complete a complaint against a case. It was cost prohibitive. I heard there was no point. It has allowed me not to achieve closure. Part of me is still seeking justice”—

and so on and so forth.

One went on to say:

“I had no idea that I was allowed to have access to them.”

There is a shocking spectrum of opinions on this and I suspect that a small number of those involved have tried to access the transcripts.

I feel that the letter says, “We are having a conversation with the courts. It is at the very early stages and we will get back to you.” That was what we heard last time we had correspondence from a previous cabinet secretary, and it is what we heard from the cabinet secretary before that. The content of the letters is always positive in saying, “Don’t worry, we are looking at this issue”, but we never, ever see any detail. It pains me to say that because I believe that the new cabinet secretary will take this issue very seriously and will try to make progress on it, but we are not seeing progress. We are seeing one-page letters promising action that we never see.

People out there want concrete detail about how this pilot will go ahead, what it will look like and how it will be communicated to stakeholders and victims. Quite simply, I would like to see more done faster.

**Rona Mackay:** I agree with Jamie Greene about the Rape Crisis Scotland communication. I do not think that there is an issue about anybody thinking that court transcripts should not be

available. I do not take such a gloomy view of the letter, to be honest. The cabinet secretary says:

“I look forward to working with the committee ... also as we progress the Victims, Witnesses, and Justice Reform (Scotland) Bill”

I think Jamie Greene was perhaps conflating the two. The cabinet secretary is saying that she is looking forward to working with the committee on the issue of court transcripts but also that that huge bill is coming down the line. She just mentioned that. I am not sure that the two should be conflated. In a couple of paragraphs she stated her commitment to doing this.

We could follow this up by asking if we could get a timescale so that we are clearer on that. However, on the whole, the letter is just stating what we had thought was happening—I know that this has gone on for a long time. For me, the issue is when the pilot is starting. More detail on that would be fine. However, I do not think that it is as gloomy as Jamie Greene is making out.

**The Convener:** No one else wants to come in. Thanks very much, Rona and Jamie. I have noted your comments about timescales and I do not disagree. We seem to have been looking at this for quite some time. If it is helpful for members, I flag that last week, in response to a question that I asked in the Conveners Group meeting, about progress on access to court transcripts, the First Minister said:

“The Cabinet Secretary for Justice and Home Affairs was planning to write to the committee this week expressing the Government’s commitment to supporting a pilot to support access to court transcripts, initially focused on complainers in sexual offence cases. So it is an issue that I am well aware of, given my previous role as a cabinet secretary for justice. We will absolutely commit to a pilot focused initially on complainers in sexual offence cases.”

I am certainly happy to hear that. That is where we want to be. I absolutely take the point about timescales. If members wish, I am happy to write to the Government seeking a bit more clarity on timescales. I also suggest, if members are in agreement, that we send a copy of the cabinet secretary’s letter to Rape Crisis Scotland for its information and to Scottish Women’s Aid and Victim Support Scotland, which have all been interested in and active on this issue, for their information. Do members agree with that proposal?

**Jamie Greene:** Thank you very much, convener. The update from the First Minister is very helpful. It perhaps even goes a step further in its language than the letter that we received. As well as timescales, perhaps we could seek a broad sketch of what the pilot might entail so that we can manage expectations among stakeholders. If there is a large cohort of people who feel that this would be of advantage to them

but later discover that the pilot is limited in nature, that will be disappointing for them. To make sure that we are heading in the right direction, this should be made as broad and comprehensive as possible.

**The Convener:** Yes, I am happy with that. It is appropriate that we keep track of progress and ask to be updated as and when there are developments. Thank you very much indeed.

That concludes our business in public for this morning. We now move into private session.

12:12

*Meeting continued in private until 12:32.*



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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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