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Convener
Criminal Justice Committee
The Scottish Parliament
Edinburgh
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29 July 2025

Dear Convener,

Prostitution (Offences and Support) (Scotland) Bill and Prevention of Domestic Abuse (Scotland) Bill: Stage 1: update following evidence session on 25 June 2025

Following the evidence session on 25 June 2025, I consider it important that I provide the Committee with some further information to ensure members are fully informed as to the current position on a number of matters.

Prevention of Domestic Abuse (Scotland) Bill

During the evidence session there was reference to a Freedom of Information request in 2021/22 where it was outlined “there were 1,959 disclosures under the Power to Tell Scheme” regarding Police Scotland’s Disclosure Scheme for Domestic Abuse Scotland, which has helped safeguard those who have been suffering from, or at risk of, domestic abuse. The Committee will find it helpful to be aware of the current statistics for the Scheme, detailed below, which more clearly demonstrates the impact of the scheme as part of the preventative work to tackle domestic abuse.

For the period 1 April 2024 to 31 March 2025 (compared to the same period 1 April 2023 to 31 March 2024):

- 7,296 DSDAS applications were submitted to Police Scotland, an increase of 30.5% overall (1,707 additional applications)
- 4,559 Power to Tell applications were submitted, an increase of 17% (659 additional applications)
- 2,737 Right to Ask applications were submitted, an increase of 62% (1,048 additional applications)

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- 3,931 Disclosures were delivered, an increase of 24% (758 additional disclosures).

The Committee will also wish to be aware that my officials, in conjunction with the wider membership of the Domestic Abuse Justice Partners Roundtable and Police Scotland's Domestic Abuse Forum, will be holding a workshop in September to recognise the 10 years that the Scheme has been in operation and to consider what more could enhance its operation further.

I have noted Pam Gosal's offer to utilise her Bill to bring forward any proposed changes to the Domestic Abuse (Protection) (Scotland) Act 2021. I would firstly like to reiterate that there is no suggestion that the legislation, which was fully scrutinised by the Scottish Parliament, was poorly drafted, as asserted within the evidence session. The challenges are very much operational. For example, the changes proposed by the Scottish Government in responding to calls from the Committee to ensure provisions were included to seek the views of children were of good intent. It is now evident however that these changes have added to the operational challenges in this area given the absence of a Scotland-wide system where children's views are able to be fed into a court and/or police process. There were also some recognised challenges around ECHR compatibility with regard to the time lines for moving from a Domestic Abuse Protection Notice to a Domestic abuse Protection Order.

A short life working group will be established to consider recommendations for possible legislative change and once agreed we intend to consult early in the new year. As I [outlined](#) at the Equalities, Human Rights and Civil Justice Committee, it will then be for a new Government and members in the new parliamentary session to take forward any legislation that might be required, including providing the ability to pilot the legislation, if that is thought to be necessary.

Prostitution (Offences and Support) (Scotland) Bill

Noting the references made to [Operation Begonia](#), I thought it would be helpful to provide some further background information.

Operation Begonia builds on earlier work undertaken in Aberdeen and is Police Scotland's new national approach on prostitution. This approach routes women with experience of prostitution to local support and sees Police more evidently use the powers currently available to them to challenge men's demand. Operation Begonia is a key element of our Strategic Approach, and we are committed to supporting its roll out, with the next phase of this work increasing the focus on tackling the online aspects of Commercial Sexual Exploitation.

In these ongoing discussions with Police Scotland, we will review the emerging data and evidence, which will help inform consideration of the tools the police need to effectively tackle Commercial Sexual Exploitation.

On the costings for Police Scotland that were referenced in the evidence session, we have concerns that the operational costs for police may have been underestimated, particularly given the complexity around some cases. The recent [review](#) on Prostitution legislation in

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Ireland highlighted the 'resource intensive' nature of police investigations relating to prostitution.

With regard to the comments within the evidence session about international approaches, it should be noted the review in Ireland mentioned above stated that from January 2017 up to August 2024 the police service in Ireland recorded 15 convictions under their legislation. In response, their Justice Minister [commented](#) that *the 'Review highlights that despite the criminalisation of the purchase of sexual services, demand has not decreased. The review also suggested that the Office of the Director of Public Prosecutions highlighted their view that, as currently drafted, s.7A [Ireland's legislation which criminalises the purchase of sex] is a difficult offence to prove, resulting in a low number of prosecutions relative to the number of incidents investigated, as well as the report stating that, demand persists, albeit in less publicly visible and more covert forms, such as through online platforms'.*

In addition, the Scottish Government's [evidence review](#) on international challenging demand approaches may also be of interest - this highlights some of the challenges that have been experienced with implementing and enforcing legislation.

For reference I am also including some information around the National Referral Mechanism (NRM), to clarify the support that may be relevant in some cases. The support provided to victims of trafficking in Scotland is funded by Scottish Government. In order to be referred into the NRM, an individual needs to be identified as a potential victim of human trafficking and/or slavery, servitude, and forced or compulsory labour. Both UK and foreign nationals can enter into the NRM. Where there are reasonable grounds to believe that an adult is a victim of human trafficking, support can be provided for up to 90 days or longer in some circumstances. Children entering the NRM are cared for and supported within the framework of Scotland's child protection system, and the national Getting It Right For Every Child approach.

Another area of consideration in relation to the funding of support for victims, is that whilst the member referenced that the costs could be met by the Delivering Equally Safe (DES) and Victim Centred Approach funds (VCAF), these funds alone would not fully cover the range of support needs that women may have and are competitive funds which are currently fully committed. In real terms, this means that DES currently provides £21.6m to support 115 Projects from over 107 organisations and through VCAF we will provide £32m to 23 Organisations between 2025-2027, including £12m for specialist advocacy support for survivors of gender-based violence. As part of the implementation of our Strategic Approach we will continue to consider a sustainable funding model, informed by the initial roll-out of the Begonia approach.

Finally, it might be helpful if I set out to the Committee the difference between a person receiving a pardon for an offence of which they have been convicted and their conviction being quashed, not least to ensure everyone is clear with the distinction between the two.

The effect of a pardon is symbolic. The reasons vary why pardons have on occasion in the past been used, but the use of a pardon is intended to be a formal acknowledgement to "lift the burden of conviction". However, a pardon does not reverse the conviction which still exists as a matter of law and does not, in and of itself, mean that the conviction would be removed from a person's criminal record or excluded from criminal record disclosure checks.

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Pardons have been legislated for twice. First in relation to men convicted of offences relating to sexual activity with other men which is now lawful via the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018) and second in relation to those convicted of offences such as breach of the peace relating to the 1984/85 Miners' Strike via the Miners' Strike (Pardons) (Scotland) Act 2022. For the 2018 Act, a disregard system was also provided to allow individuals who had such convictions to apply to have them removed from public records so that they would never be disclosed, for example, in response to a disclosure check.

By contrast, where a conviction is quashed, the conviction is to be regarded for all purposes as having been reversed as a matter of law and information about it is automatically removed from that person's criminal record. The effect is that the conviction never existed.

Apart from the recent unprecedented and novel legislation to quash convictions relating to the post office scandal, a conviction is quashed by an appeal court because they have concluded that the original conviction was wrongful and amounts to a miscarriage of justice. The unique recent legislative approach in the Post Office (Horizon System) (Scotland) Act 2024 had the effect of quashing certain convictions of post office workers because concerns about the Post Office Horizon IT system meant these convictions could not be regarded as safe.

This legislation was decided as needed given the significant volume of cases affected by the tainted Horizon evidence which meant the usual processes of the Scottish Criminal Cases Review Commission to investigate miscarriages of justice could not timeously be utilised and instead legislation needed to be brought forward. This unprecedented and novel approach was essential in that it was only through a conviction being quashed that relevant sub postmasters could access justice by applying for the UK Government redress schemes that were available. When that Bill was debated in Parliament on 21 May 2024, the Cabinet Secretary for Justice and Home Affairs acknowledged the unprecedented nature of the Parliament legislating to quash convictions and was specific to the circumstances arising with the use of evidence taken from Horizon system and the effect this had on the safety of a significant number of convictions.

You will have seen from the recent letter the Cabinet Secretary for Justice and Home Affairs sent to you regarding that scheme, a total of 65 convictions and alternatives to prosecution have been quashed. Alongside the unique nature of the circumstances arising with the Horizon system, the legislation is complex and there is an administrative cost attached to each case with the financial memorandum for the legislation estimating it to be around £4,000 for each case identified under the Act.

I hope this additional information is helpful to the Committee.

Yours sincerely,



SIOBHIAN BROWN

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