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Convener
Criminal Justice Committee
The Scottish Parliament
Edinburgh
EH99 1SP

23 June 2025

Dear Convener,

Member's Bills

Thank you for your letter of 4 June 2025 inviting me to provide the Scottish Government's initial views on the two Members' Bills that have been referred to the Committee: the Prevention of Domestic Abuse (Scotland) Bill (Member in charge – Pam Gosal MSP) and Prostitution (Offences and Support) (Scotland) Bill (Member in charge – Ash Regan MSP).

I would first like to recognise the discussions that have taken place between Scottish Government Ministers and both MSPs since they first announced their intention to bring forward legislation, in order to better understand the policy intent behind the proposals within each Bill, and to learn how the proposals could interact with existing practice.

It has of course only been a short period since the introduction of the Bills and their final provisions. As the Committee will be aware, the Scottish Government is already progressing a number of related initiatives, and it is important to consider these alongside the proposals within each Bill. Further analysis of the financial aspects of each bill will be needed, and I want to also garner stakeholder views and consider the Stage 1 evidence the Committee gathers before coming to a final considered position on each bill.

Prevention of Domestic Abuse (Scotland) Bill

The Scottish Government fully recognises the well intentioned nature of this Bill but at present has particular concerns with regards to how the proposals would work in practice and the anticipated financial and resource implications of specific proposals, with particular reference to Parts 1 and 2 of the Bill which appear unaffordable. This will require further discussion and engagement with justice partners and wider stakeholders.

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Consideration of the provisions in Part 1, relating to notification requirements for domestic abuse offenders, should expressly include how they would work in practice alongside the existing schemes such as MAPPA and the Disclosure scheme for Domestic Abuse Scotland. We also note the views of stakeholders that there is little evidence that notification acts as a deterrent.

With regard to Part 2, it is worth noting that the consideration of rehabilitative measures and support programmes can and do form part of the dossier which is subsequently referred to the Parole Board prior to their decision-making. It is acknowledged that this process could be strengthened, however this can be achieved without the requirement for legislation.

We welcome acknowledgement that there is valuable rehabilitation already taking place, such as through the Caledonian System. It is important to recognise that Caledonian is a court ordered programme and it is for the court to decide what they deem is most suitable based on what is available in a local area – with some local authority areas having similar programmes but not the Caledonian System. Legislation is not required to expand such programmes.

In Part 3, we note the provisions in relation to the collection of further data on domestic abuse victims and while we recognise that more work is required, there are again opportunities to progress this area through non-legislative measures and we are already discussing that with justice partners through our Domestic Abuse roundtable format.

Part 4 and the provisions on the establishment of duties on education authorities, requires further consideration as to how this would operate in practice and how it would be resourced. The delivery of domestic abuse education would need to be carried out by appropriately trained staff and the impact on children of such programmes would need to be considered – different ages would require different programmes for example. This proposal would also be out of line with the current discretionary and non-prescriptive approach to the delivery of learning and teaching within the curricular framework currently in place, which the Scottish Parliament has consistently recognised as important.

Prostitution (Offences and Support) (Scotland) Member's Bill

The Scottish Government recognises the underlying intent of the Bill to challenge men's demand and to tackle commercial sexual exploitation, which are goals we share. There remain significant questions and concerns regarding the measures within the Bill and how they would work in practice, the extent to which they would deliver on the policy intent, and the associated financial implications.

We will want to further examine the bill's proposals and consider any evidence that the policy intent can be delivered through the proposals. For example, we note the challenges experienced internationally, including in Ireland, which has recently published a [review](#) of its legislation, particularly in relation to enforcement. We are also well aware of the challenges that the online aspects have posed in relation to enforcement and policing, and this is subject to discussion at official level with Home Office counterparts, for example on the current UK Crime and Policing Bill.

There is also insufficient detail on how it is envisaged the proposals to support those involved in or exiting prostitution would work in practice, how long they would be available for and what the associated costs would be, in order to be able to come to a considered view.

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In particular, and as I outlined during the member's business debate on combating commercial sexual exploitation on 3 June, I have significant and deep concerns about the quashing of previous convictions as set out in the Bill. The quashing of convictions is exceptional and has only been done in this Parliament for sub-postmasters through the Post Office (Horizon System) Offences (Scotland) Act 2024 to ensure they were eligible to access redress schemes.

That is not a step that can be taken lightly and would require significant stakeholder engagement, recognising the exceptional nature of such action, the potential number of people who may be involved (especially given the retrospective nature of such a proposal) and the associated costs involved.

I would observe that related costs for the Post Office (Horizon System) Offences (Scotland) Act 2024 were estimated to be £804,000 based on 200 people. From my recent discussion with Ms Regan, and the information within the Financial Memorandum, it is suggested that since 1982, 10,459 women have been convicted under the soliciting offence. Furthermore, it says that Police Scotland currently holds 2,773 case records involving 791 individuals, which raises some concerns about the accuracy of the associated costs - around £250,000 - detailed in the Bill's Financial Memorandum.

I hope this is of use to the Committee.

Yours sincerely,



SIOBHIAN BROWN

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