OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 27 October 2021

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 27 October 2021

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CRIMINAL JUSTICE COMMITTEE
8th Meeting 2021, 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:

Superintendent Norman Conway (Police Scotland)
Leeanne Hughes (Sacro)
Peter Krykant
David Liddell (Scottish Drugs Forum)
Natalie Logan MacLean (Sustainable Interventions Supporting Change Outside)
Anthony McGeehan (Crown Office and Procurator Fiscal Service)
Neil Richardson OBE (Scottish Drug Deaths Taskforce)
Louise Stevenson (Sacro)
Becky Wood (Scottish Drug Deaths Taskforce)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 27 October 2021

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Audrey Nicoll): Good morning, everybody, and welcome to the Criminal Justice Committee's eighth meeting in 2021. There are no apologies.

Under agenda item 1, does the committee agree to take in private items 3 and 4, which are a discussion of our work programme and consideration of today's evidence?

Members *indicated agreement.*

Misuse of Drugs and the Criminal Justice System

10:00

The Convener: Item 2 is the next in a short series of round-table discussions. We will look at the misuse of drugs and the criminal justice system, and I refer members to papers 1 to 3.

I welcome our panel of witnesses: Mr Anthony McGeehan, procurator fiscal, policy and engagement, from the Crown Office and Procurator Fiscal Service; Mr Peter Krykant, activist and campaigner; Natalie Logan MacLean, chief executive officer at Sustainable Interventions Supporting Change Outside; Superintendent Norman Conway from Police Scotland; Leeanne Hughes, Shine programme mentor, and Louise Stevenson, lived experience participant, Sacro; Neil Richardson OBE, vice-chair, and Becky Wood, lived/living experience representative, from the Scottish Drug Deaths Taskforce; and Mr David Liddell, chief executive officer at the Scottish Drugs Forum. We appreciate the time that you are taking to join us. Thank you for your written submissions, which are available online.

I intend to allow about two hours for the discussion. I ask members to please indicate which witness they are directing remarks to. We can then open the floor to other witnesses for comments. If other witnesses wish to respond, I ask them to indicate that to me or the clerks and I will bring them in if time permits. If a witness merely agrees with what another witness says, there is no need to intervene to say so. You can let us know that you want to speak by typing the letter R in the chat box. I ask members and our invited guests to keep questions and comments as succinct as possible, please.

I will open the discussion with a fairly general question for Peter Krykant, Louise Stevenson, Natalie Logan MacLean and then Becky Wood. To the extent that you want to share this with us, will you tell us about your experience and about how we deal with drugs misuse in the criminal justice system? How has that impacted on you? How accessible is support to give people a route to recovery from drug misuse and addiction?

Peter Krykant: Thanks for inviting me to give evidence. If I look back to my early drug use, it facilitated involvement with the criminal justice system from as early as the age of 16 for me. I was in Longriggend young offenders institution, which is now closed. Before going in there, I was not a heroin user, but more or less straight away when I was released after spending three months in that institution, I became a heroin user.

At that point, the support was not available to address the underlying things that were going on for me—the adverse childhood experiences and trauma that I suffered when growing up. The frustrating thing today is that, 25 years later, we still do not have access to the support that we need to keep people from recycling through the criminal justice system for street-level drug use or for supplying drugs simply to feed their drug-dependency issues. People do not have the support.

As I said, we are more than 25 years on since I was a homeless, public-injecting drug user who used drugs in alleyways and behind bins, which made me prone to infection and disease, but we are still in exactly the same position in Scotland that we were in all those years ago. There are internationally recognised, evidence-based ways to reduce the harm that is caused by drug use, but we are simply not allowed to implement them, or we are not finding a way to do that. There are clear ways in which we can implement evidence-based methods of supporting people off illicit drugs and on to medication that keeps them well and allows them to be productive members of society.

The Convener: That is very helpful. I will ask Louise Stevenson the same question. Will you say a little about your personal experience? How have you been impacted by the way in which we deal with drug misuse issues in the criminal justice system? Do you have any other comments that would be helpful for us?

Louise Stevenson (Sacro): Hi. Thanks for inviting me. As Peter Krykant said—[*Interruption*.] Sorry—there is an echo in the room and it is putting me off.

I am all about safe consumption rooms. My goal is to get safe consumption rooms everywhere. We definitely need them in my area and in other areas such as Glasgow and across the central belt—we need them everywhere. I definitely agree with Peter Krykant on that.

Those in the criminal justice system here are quite good at helping, but only if you tell them the truth. You have to tell them the truth for them to help you.

The Convener: Thank you—that is very helpful. I think that we have managed to sort out the echo on the line. I now ask Natalie Logan MacLean the same questions.

Natalie Logan MacLean (Sustainable Interventions Supporting Change Outside): My experience of addiction is as one of the children who were born into the heroin epidemic. Unfortunately, if you lived in a disadvantaged or deprived area, you were one of the children who experienced neglect through that generation of drugs. Although I had a family that loved and cared for me, they were unfortunately unable to raise me, because crime and drugs took precedence over my education and nurturing me to become a strong, independent woman.

Schooling was difficult for me, because I moved from a chaotic area into quite an affluent area where I did not fit in. My family were still criminals, so I was trying to fit into a world where I did not belong and I got a bit lost. Drugs were very accessible to me because I had family members who sold them. Having come from a very abusive background, my coping blanket became using drugs and substances. Unfortunately, when I wanted to get help, no help was available in 2006, or between 2007 and 2009 for that matter.

Over the years, I have witnessed a decrease in the support that is available. There is no longer any choice. We lack the ability to offer same-day prescriptions, to provide safe consumption vans in deprived areas and to access holistic methods of support, be that residential accommodation or day programmes.

I was one of the fortunate ones who had a care manager who actually cared. To me, the care element is missing from a lot of services. We work in a system of care, but not all staff members care about your journey, nor do they care whether you abstain from the drugs that are potentially killing you. I could go on about my issues all day, but for the purpose of this debate, it is about exploring the gaps and what is missing and pulling the evidence together.

The Convener: Thank you, Natalie. You covered some really important and interesting points. Becky, I open the floor to you.

Becky Wood (Scottish Drug Deaths Taskforce): Hi. Thank you for inviting me along this morning. My experience is a bit different from the experiences that have been described so far, but I think that it is quite typical of the experiences of women in Scotland. I did not come to use illegal drugs until later in my life, although I believe that I have an addictive personality and had an addiction. I had issues with substances right up until I started using illegal drugs, which was when I was in my 30s.

I think that that was the culmination of things that had contributed to making my life difficult over that period. I was brought up in a small Scottish town, in poverty. There was a lack of available jobs for people in the town where I lived—I am quite old, so I am talking about the 1980s. I suffered trauma. I was in a violent relationship for quite a long time. It was about 15 years before I managed to get the strength to come out of the relationship, and by that time I was traumatised. I was quite broken and desperate, and at that point

using drugs seemed to me to be the answer to the pain that was going on in my head.

The experience that I had with criminal justice varied depending on what was going on for me. I lived with a drug user who was known to the police. He used and sold drugs and I was often caught up in that situation—so were my children. My experience at that time depended on what the situation was and who came into it. I had some quite positive experiences with community police officers, who were a bit more understanding of the local circumstances. They had a different job, in that it was not their job to decide whether I was a drug user, a drug dealer or someone who bought drugs illegally. Drug enforcement officers have a different job. As someone who had a health problem and needed help, it was less helpful to me to be arrested and locked up. Thankfully, I did not get a prison sentence, but I was arrested over and over again.

That brings me on to my court experiences. I feel really grateful that I lived in Clackmannanshire, where there was a sheriff—Sheriff Mackie—whose way of working with people who had drug problems was really helpful. He gave people opportunities to do community service or be on a payback order, and he supported people to get help for their addictions. That was a good experience for me. It really gave me the feeling that I was being given a chance.

The Convener: Becky, you have made some really powerful points. I want to give members the opportunity to ask questions of all four of you—Peter, Louise, Natalie and you—so I will stop you there for the moment and open up the meeting to members.

10:15

Jamie Greene (West Scotland) (Con): I thank our first speakers for sharing their personal experiences. I know that it is often difficult to speak about such things in public, but we value hearing about them.

A common theme seems to come through the answers. There always seems to be a trigger, if you like, such as when you were trying drugs for the first time or you might have been coerced or felt pressurised by your peer network in some way. What intervention do you think could have been made at that time so that the first time did not lead to the second, third or fourth, and the addiction that it created thereafter? What could have been done at that point to prevent that spiral from starting in the first place?

That question is open to anyone; you can just wave your hand if you want to answer.

Peter Krykant: Thanks for the question. I do not think that there was one particular incident in my life that sparked problematic substance use. I grew up in a small village on the outskirts of Falkirk and a lot of my peer group were experimenting with substances such as cannabis, alcohol, poppers, LSD, amphetamines and ecstasy.

I have to say that I had some of the best times of my life on drugs. The issue here is not drugs; it is how we police drugs and how an unregulated market leads to many people dying. The fact is that you can walk into any safe consumption facility in the UK and order half a pint of lager or a vodka and you know that it is not going to kill you. You can wake up every morning and put caffeine in your body. However, if you go and get a substance that is controlled by a criminal gang, you have no idea what is in it and you are dicing with death every time you use it. That is where the real issues lie.

A lot of the issues around being catapulted into problematic substance use are to do with how we are policing things. I was arrested for possession of a small amount of cannabis at a very young age, and that catapulted me into the criminal justice system, which did not help me in any way, shape or form. Instead, it led me to problematic substance abuse.

The issue is not about the substances; it is about how we regulate them. If we had a regulated market, such great numbers of people would not be dying right now. People are dying because criminal gangs are controlling the market. It is that simple.

Jamie Greene: Thanks, Peter. The place of organised crime in all this will come up later, as will the issue of people accessing drugs for the first time while they are in young offenders or adult detention institutions.

Louise Stevenson: For me, it was not just one thing that turned me to drugs. Many things were going on in my life to do with the place where I lived, people like my peers, as you say, and people who I thought I could trust giving me drugs at a young age.

I stuck in at school. I was in the sixth year and I did highers. For me, it is not about whether you have got the biggest brain in the world or whether you are clever or intelligent. For instance, my younger sister has no experience from school because she left in the third year because of bullying, but she is now working as a nurse for old people with dementia. You do not just have to stick in at school to get a job, get this or get that.

I have been in prison, and I now want to better my life. I hope that what we are doing today will give me an opportunity to do that. I have never

done anything like this in my life before, but I like talking, eh?

I agree with Peter Krykant. We need safe consumption rooms, vans or ambulances in this country. Who wants to walk past trees and see needles sticking out of them? Who wants to go and see somebody who has overdosed lying next to a bush? Nobody wants to see that. If there are safe consumption rooms in Kirkcaldy and Glenrothes—I say that because I am from Fife—maybe they can then grow. We do not want to see people lying there dead and end up saying, "Oh, we could have saved that person with naloxone, but we never did it because we haven't got any and there aren't any safe consumption rooms."

I see people taking drugs all the time in closes—well, they are not even in the close; they are standing at the doorway of the close so that they can get some light. It is crazy. Most of the drugs in my area are crack cocaine. There is a crack epidemic in my town and all around the central belt, from Fife to Stirling, Glasgow and Edinburgh, and maybe Dundee, as well. There is more crack than heroin or benzodiazepines nowadays. I am not saying that taking heroin or benzodiazepines is not going on—it is—but crack cocaine is the worst drug. I have lived it myself. I have been there, and I have been in prison for robbing shops to get crack. I would not have done that for heroin. Nowadays, people are doing things for crack that they would never have dreamed of doing for heroin. We need to change things.

The Convener: Thank you, Louise. That was very powerful. We like you to talk; it is very helpful.

Natalie Logan MacLean: When I was younger, there were a lot of campaigns, such as the just say no campaign. However, as I think that everyone around this table knows, if you tell a child not to do something, curiosity will probably lead them to do it. Those campaigns did not help. They probably created a lot more stigma than it was anticipated that they would.

We continue to get lost. People are already lost, and drugs are a symptom; they are not the cause. Most people who are addicted to substances come from deprivation. We know that trauma, neglect and sexual and physical abuse are prevalent in deprived areas and communities, and we know that literacy and numeracy aims are not being met in schools. We should not continue to look at the symptoms of addiction and not the causes, such as the child's environment, how they are being raised, and whether removing them from the parent will be helpful.

In my experience of my own addiction, the system created the failure in me by removing me from my mother. My mother was never unfit to look after me, and she was not a drug addict—my father was a drug addict—but the system removed me from my mother and my sister, and it sent me to live with my grandparents, who were the ones who created the trauma in my father to begin with.

There are generations of systemic failures, and we have continued to look at drugs as being the problem, but they are just a symptom. We need to look at the causes of individuals using drugs to begin with.

The Convener: Thank you, Natalie. A number of members would like to come in with questions.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Natalie, the first time you spoke you alluded to a gap in services. Can you expand a wee bit on your thoughts on that?

Natalie Logan MacLean: Do you mean gaps in service provision?

Rona Mackay: That was the word that you used. Can you expand on that?

Natalie Logan MacLean: I can give you my personal experience and my experience as a professional.

When I went to seek help, no one knew what to do with me. I lived in Bishopbriggs, which is quite an advantaged area, I had a relatively good job at the time and I had children in school there. When I went to the GP to say, "I can't live my life like this anymore", my GP did not know what to do with me. He said, "I can refer you to the community addiction team, but I don't know if that would be okay for you." My GP was stigmatising the community addiction team and who fits the criteria to go there. When I went to the community addiction team, the social work department removed my children because I had admitted that I had a problem. The gaps meant that no one was nurturing me to say, "This is how to be a better mother", or "This is how to keep your children", or even "This is what we are going to do to support you".

My choice of drug was not heroin and did not involve, at that time, injecting needles into my body—it was alcohol and cocaine. As a society, we accept those drugs a bit more than harder drugs and it was maybe seen as a superficial addiction. The community addiction team also did not know what to do with me: because it was not an opiate-related addiction, they could not put me on methadone. I was passed between four different addiction workers in two years and I got progressively worse during that period.

Coming into an environment like a community addiction team, I met people that I would not typically have met in my life. That meant that I was exposed to new drug types. It was my fourth addiction worker who recognised that I should not have been there and that we needed to look at

getting me into rehab. That was the Willy Wonka golden ticket for me—they are few and far between. Back in 2011, I got the opportunity to go into residential rehab. My addiction worker recognised that I was not a terrible mother or a bad person—I was a professional person who had got lost. As soon as I was released from rehab, I got into a community day programme. However, they are no longer around because we closed all the community day programmes. That was my personal experience.

In my professional experience, there is very little service provision. We work in the Scottish Prison Service and we can do fantastic work with men involved with the service. We know that 47 per cent of men and women in prison have numeracy and literacy skills below the level of an 11-year-old. If we develop those skills, support them to rebuild and look at their wellbeing and what their family support network is, we can build a really good care plan from the prison. However, there are gaps when they leave prison. They are liberated to no GP, their benefits are not secured and they have to present to a homelessness casework team to find out what accommodation they will have on the day that they are released. There is no sustainable plan for those individuals.

Every day, a family member or a chaotic drug user will phone me to say, "Can you help me? What support is available in my area? How can I engage in your service?" There is no fluency. That is because we have very little choice in Scotland. For the last 20 years, we have invested in the medical model, which is great, because medicine helps. However, where is the holistic rehabilitation to support the medical model?

Rona Mackay: Thank you, Natalie. That was a really important and informative contribution. Your story and the way that you have turned your life around is inspirational. What you have told us about your experience—in what you have been through and of the system—is very useful to us.

The Convener: Before I bring in Fulton MacGregor, I invite Becky Wood to make a couple of points. It would be helpful if they could be brief.

Becky Wood: I will try to be brief, although that is not one of my strong points—sorry, convener.

I want to pick up on a previous point. The problem is complex, and a range of options needs to be put in place to support people before they enter the drugs scene, and to support those who have ended up in the criminal justice system. I completely agree with everything that Natalie Logan MacLean said about the need for a holistic approach.

10:30

There are some good projects with children going on around the country. For example, there is a project at a primary school in Alloa that aims to create a safe environment with a feeling of being able to talk openly and support each other. Although that might sound really detached from what we are talking about today, the long-term solution to the problem is about making our children's homes safer; letting children know what is acceptable and what is not; and giving them opportunities to get support and to talk to someone if they are having difficulties.

The Convener: I will bring in Fulton MacGregor, and then Louise Stevenson, who I know is keen to come in.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I have a broad question for the four people who have spoken to us about their lived experience. I really appreciate that; it is very helpful to the committee. I am a big believer in safe consumption rooms. We need to find a way to make them happen.

Given that we are the Criminal Justice Committee, my question is about something that you have all touched on already, which is the interaction with the various justice services within the committee's remit. We will hear from many of those services later today.

How trauma informed are those services—criminal justice social work, the police, courts, prosecution services and so on—in their interactions with people who are using drugs? Is there a stigma in the agencies and organisations around drug users? Natalie Logan MacLean touched on that a wee bit. How can we get better at that?

I realise that that is quite a general question, convener, so I am happy for you to pick out who you think could answer it.

The Convener: I will bring in Louise Stevenson, as she was keen to come in. Perhaps she would like to respond to that question, and then go back to the point that she wanted to make earlier.

Louise Stevenson: I am sorry—I was focusing on what I was going to say, so I am not 100 per cent sure what Fulton MacGregor just said. My point comes off the back of what Natalie Logan MacLean said. My son was removed from me when he was 10 days old. I never got the chance to bring him up and I got no opportunities. I think—well, I know—that my life would be completely different had I been given the chance to bring up my son.

I had no family support, but I was not using drugs at the time. I was using drugs when I found out that I was pregnant, and they put me on 30ml

of methadone, which was enough for me. They then put my dose up by an extra 10ml, although I said that 30ml was enough and I was being sick with it. Because it was on the prescription and my addictions worker was on holiday, they could not take the increase away. Why they could not do that is beyond me—they could have given me a new prescription from somebody else. They put me up to 40ml when I was pregnant, so I was being sick every day, and then the morning sickness started.

My point is that I did not get a chance to bring up my son, and I know that that would have made my life different. I gave birth to my son in 2013, and I then started getting the jail in 2014. I never got the jail before that. As I said, I had my son in August 2013, and I got the jail in May 2014. Since then, it has been a revolving door, but I have been out for six months now and I have done great, so I am happy to be doing this session today—I am actually quite excited about it.

The Convener: A huge well done to you, Louise—you are a powerful witness. Thank you for that.

Louise Stevenson: Thank you.

The Convener: Perhaps Peter Krykant would like to make a few comments in response to Fulton MacGregor's question.

Peter Krykant: The support for overdose prevention sites in Scotland is well appreciated. Having run the unsanctioned site in Glasgow, I have had a lot of front-line interaction with Police Scotland, and that interaction was one of the highlights of running the service.

In my recent experience, compared with my experience of being in the system 25 years ago, front-line police officers are completely different. Officers are a lot more aware of trauma, and they want the ability to divert people away from going through the courts and the criminal justice system and get them into the treatment services that they so desperately need.

We have a lot more solicitors now who are trauma informed and we have sheriffs who are aware of the situation. However, if somebody is charged with possession of a class A substance and the case gets to court, sheriffs' hands are tied; they often have no other option than to sentence the person, especially if they have a prior history of being in and out of the criminal justice system.

That is why the evidence on how a divert system works, which I submitted on behalf of Cranstoun, the organisation that I work for now, is really important. People who get caught with small amounts of cocaine or MDMA when out at a nightclub often turn up in the court system on a Monday morning. The sheriff has to divert them into a treatment service, although they do not need to be there—treatment services are already under the cosh with the case loads that they have. If, at the beginning, we can divert those people into an education programme, that will keep them out of the criminal justice system.

Let us get it right. After all, how many high-ranking politicians have admitted to small amounts of substance use in the past? They certainly would not need to be diverted into treatment services so could be kept out of them. That would keep treatment services that need to deal with problematic substance users free to do so.

We are a lot more aware of trauma and there is much better practice in that regard. However, our hands are still tied by the 50-year-old Misuse of Drugs Act 1971, which is one of the longest-running pieces of legislation that has had no reform. It is outdated and it is not fit for purpose. Drugs are different now and they are consumed in a different way. We must push the UK Government to deal with that law so that we can have better practice here in Scotland.

The Convener: I think that Becky Wood and Louise Stevenson are keen to come back in, but I would like to bring in Collette Stevenson so that all members have had an opportunity to ask questions.

Collette Stevenson (East Kilbride) (SNP): I thank the witnesses. The evidence that you have provided so far has been powerful, and I take my hat off to each of you.

I want to talk about the person-centred approach for people going through recovery. I have experience as a family member of someone who has experienced something similar to what you have spoken about. There was guilt and stigma in going through all that. The advice that we got was that we were only feeding their habit and that we had to wait until they had hit rock bottom. When I reflect on that now and see the work that places such as the Beacons in South Lanarkshire are doing, I see that that advice was totally wrong. Have you seen a shift in the approach, so that person-centred support is put in place, as well as support for the family? Arguably, most families are pretty scared when it comes to stuff such as this. I would be keen to know whether you have seen a change.

The Convener: I will bring in Becky Wood, to be followed by Louise, to pick up those points.

Becky Wood: I have experience of that as family member, too. I think of addiction as a family disease. I totally understand the difficulties for family members. Progress is being made. I work for a recovery community in North Lanarkshire, and I am also attached to the recovery community in Forth Valley. We have a whole-family approach

to supporting people into recovery. That approach is the answer. However, we are a small charity and do not have a lot of pull with other organisations.

On whether family members receive the guidance and support that they need, my experience is that that has not really changed much. I have a friend whose son recently overdosed. He was repeatedly overdosing. On one occasion, staff managed to resuscitate him. The ambulance did not arrive to take him to hospital on that occasion—they said that, as he was revived, he would be okay. That should never happen—it would not have happened if he had been having a stroke and then felt better. When my friend's son eventually accessed the service, he was told that his addiction was not severe enough to need treatment. The family was not given information, they were not supported and they were not given any explanation as to why their son did not appear to fit into the service. A lot of work is still to be done.

Engagement with the recovery community is definitely the way forward. We have community members who are family members with lived experience like I have. It is really important to involve the whole family and take a holistic approach.

Louise Stevenson: All that Peter Krykant said is pretty much all that I was going to say. I add that police officers in my area do not seem to have enough training in working with people with mental health issues. They do not have any empathy—they just take you and that is it. I do not think that that is fair; I do not think that that is right. They need training to determine whether a person should be in a cell or whether they should be in hospital. Do you know what I mean?

We get treated like—I think that Becky mentioned this—second-class citizens. About eight, nine or 10 years ago, I had blood taken in hospital. Initially, the staff did not notice my needle marks. However, as soon as they did, that was it—they did not care and they treated me like a second-class citizen. They have a duty of care, regardless of whether a person does or does not take drugs, or whatever else they might do, but some of them do not hold to that duty.

The Convener: Thank you, Louise. I will hand back to Collette Stevenson.

Collette Stevenson: Yesterday, we had a debate on substance abuse in the chamber. That focused more on stigma and how we tackle that. What are your views on how we should tackle stigma? What about the use of words such as "junkie"? For those who have gone through the criminal justice system, what impact does that word have? How can we move away from that?

The Convener: I ask that Natalie Logan MacLean comes in, to be followed by Peter Krykant. I ask that you keep your comments fairly brief.

Natalie Logan MacLean: We get very comfortable with using tokenistic phrases such as "person centred". I hear service providers say to family members, "Don't worry about it, we're going to use a very person-centred approach and make sure that everything is okay". It is a great phrase, and it sounds very fancy, but what does it mean to the individual? To me, "person centred" means answering the phone to someone at 11 or 12 o'clock at night, or knowing that my background issues might be different from theirs.

10:45

My first drug death was in 1986. Since then, I have had six family members pass away, and it has not got any better. All of society is responsible, and the media plays a massive part with the language that it uses. A lot of the stigma comes from the media, the language that it uses and how it portrays individuals who have addiction issues. If we start to look at addiction as a health inequality, that might just reduce the stigma that is attached to it.

Collette Stevenson: Peter, do you have any comments?

Peter Krykant: Yes, thank you.

It is still really raw for me. Just a few weeks ago, I carried a family member's coffin to a graveside and stood over his grave while his 5-year-old daughter said, "But Daddy will climb out of there." We all know that he will never climb out of there.

He was not a problematic, everyday drug user. For my family, it was really hard to understand. It was particularly hard for his brother, who wanted to get the person who sold him the drugs and do something bad to him. I know the person who sold him the drugs, and he is also nearly dying. If you look at that person, you can see that he is nearly dying, and he is not the person to blame.

There is stigmatisation, hurt and pain—families do not want to stand up and say that they have lost their loved ones to a heroin overdose or a street benzodiazepine overdose. We do not want to say that publicly, but we are now starting to see more and more families stand up and say, "We need change, and we need things to be different".

I love the work of Anyone's Child, through which brave family members have come forward and said that their children, brothers, sisters, mothers or fathers would still be here today if it was not for the outdated way in which we are trying to deal with the problem and the issue of illicit substances.

As I say, talking about the experience of losing family members is still very raw for me. Things need to change, or we will continue to see thousands of people die every year in Scotland.

The Convener: Thank you, Peter. I am sure that we all extend our condolences on the death of your family member. I can only imagine that it is a really difficult time for you, so we appreciate your contribution.

I am aware of the time, so I will open up the issues that we have been exploring this morning to the other witnesses, who have been waiting patiently. Would any of you like to comment on some of the issues that have been raised so far? Mr Liddell, you have indicated that you would like to comment.

David Liddell (Scottish Drugs Forum): Yes, I have. Thanks for the invitation to contribute today.

The main things that I want to talk about are the issues of poverty and trauma, which we have heard about through the experiences that have been highlighted by Peter, Louise, Natalie and Becky.

For most folk, drug use is actually self-medication. As Natalie said, drug use is the symptom of underlying issues. If we go back to the issue of poverty, the roots of Scotland's massive drugs problem—60,000 people or so—go back to the 1980s and the significant unemployment and so on.

If we compare Scotland to countries with very different drugs policies, such as Sweden and the Netherlands, we see that both those countries have far smaller numbers of drug users per head of population than we do because their societies are more equal and cohesive than ours. It is important to make that point about the origins of the problem. The problem of poverty is overlaid by the issue of trauma across a number of generations. We must address both those problems.

I agree with the points that people have made about the need for a wide range of holistic services, including early family support. We are facing a public health crisis in drug-related deaths, and we must do lots of things very quickly. No one has mentioned the medication assisted treatment standards that are being introduced, such as same-day prescribing.

One challenge is that people do not stay long enough for the existing services to give them appropriate help. That has an impact on the criminal justice system. People drop out of services for a range of reasons. That can often be because of quite punitive practices in community services. If people do not engage appropriately or do not attend appointments, they may be removed from methadone programmes and then may commit crimes. We must see that holistically. There is a need for community services to be better than they currently are.

We have to look at how the criminal justice response relates to and helps the public health and community response. There are 7,500 people in our prison system. I would guess that half of those people have underlying issues with trauma and drugs. We must keep those folk out of the criminal justice system and out of prison as much as possible. That is much more cost-effective. The best way to do that is to have a range of much better community services.

The Convener: I will stay on the issue of trauma-informed approaches and care and bring in Superintendent Conway and then Mr McGeehan from the Procurator Fiscal Service. I would like to hear how trauma-informed their respective services are. Superintendent Conway, will you tell us how that is being built into policing? Then I will bring in Mr McGeehan.

Superintendent Norman Conway (Police Scotland): I represent a new division in Police Scotland. The former safer communities department is working closely with the Scottish Violence Reduction Unit, which has used a public health approach for the past 15 years. That approach has been tested and shown to work. We also work with the international development unit.

The new division was formed on 1 April this year. We focus heavily on a public health approach to policing and on trying to embed that across the force. We have people working with NHS Education for Scotland and with Government colleagues and we are looking at a trauma-informed package for the whole force. Work has already been done with some of the specialist divisions, but we are looking to roll that out across the force.

I would like to pick up on a couple of points that have been raised. The conversation this morning has been insightful. There are challenges in the wider system, but there are huge opportunities with the work of the Scottish Drug Deaths Taskforce. Neil Richardson will be able to talk about the sub-group on multiple complex needs. When I look across the partnerships from my policing perspective, I see overlaps and gaps. A lot of funding is allocated to the symptoms that have been mentioned today—mental health, suicide, drugs, violence, poverty and homelessness—and that funding could be better co-ordinated. It is leading to overlaps and gaps in activity.

Some of the work that is being taken forward under the stewardship of the Scottish Drug Deaths Taskforce around multiple, complex needs and the

use of peer navigators represents a positive opportunity to redesign the system, make it more person and family centred and help people to get to the right service at the right time when they need it.

Anthony McGeehan (Crown Office and Procurator Fiscal Service): As a prosecutor, I have received training in relation to a trauma-informed approach. I have received inputs from organisations such as the Scottish Violence Reduction Unit, and many of those inputs echo the powerful testimony that the committee has heard this morning. That is my personal experience but, as an organisation, we are similarly engaged with the Scottish Government work that my Police Scotland colleague mentioned whereby, as a criminal justice system, we are looking to develop a wider trauma-informed training package for all criminal justice practitioners.

The Convener: I will bring in Louise Stevenson on the subject of trauma-informed approaches and care, and we will then move on look at drug supply and links with serious organised crime. Louise, will you be as brief as you can, please?

Louise Stevenson: My point follows on from what somebody else said—it was maybe Pauline McNeill. Drugs are worse now than when I was a child and an adolescent. I did not see or hear about half as much drug use when I was younger. I saw it in my family—it was there—but I did not see the crime or the police on the streets checking for people breaking into houses. Stuff like that was not as bad as it is now.

Some people I know do not go to fixed appointments such as social work appointments because they do not get on with their workers. That is something that I have been through—I have not liked my worker and I have asked to change. Sometimes people are told that they have to stick with their worker, but if they do not like them, they are not going to tell them their story or what has happened that month. If you do not like the person or do not click with them, how are you meant to thrive after not speaking to them?

The Convener: Thank you, Louise. I think that we understand and appreciate that that issue of relationships is important.

I thank everyone for their comments on that subject, which have been insightful and informative. We will move on to look at the supply of drugs and links with serious organised crime, starting with a question from Russell Findlay.

Russell Findlay (West Scotland) (Con): I thank Peter Krykant, Becky Wood, Louise Stevenson and Natalie Logan MacLean for their testimonies, which were very moving. I express my condolences to Peter for his loss.

So far, much of our focus has been on what might be described as street-level drug use and drug dealing, but every single pill, rock or tenner bag comes from organised crime, and organised crime activities are estimated to cost the Scottish economy about £2 billion a year. That is a much-quoted figure, although I am not entirely sure where it comes from. According to the Crown Office's submission to the committee, the value of proceeds of crime confiscation orders relating to drugs last year was about £1 million. It has long been said by many people who are involved in criminal justice that the Proceeds of Crime Act 2002 has failed and is failing. Mr McGeehan and Mr Conway, do you agree with that interpretation? What can be done to improve the targeting of those at the high end of organised crime?

11:00

Anthony McGeehan: In relation to Mr Findlay's proposition that the Proceeds of Crime Act 2002 has failed, I do not accept that characterisation. Prosecutors are committed to recovering criminal profits from organised criminals in the event of a conviction. That is the critical issue for the wider narrative described by Mr Findlay. Prosecutors can proceed to recover criminal profits only where a prosecution results in a successful conviction and where there are assets to be recovered. That perhaps explains the apparent discrepancy between the value of the illicit criminal market in Scotland and the sums recovered from criminals on conviction. The challenge in recovering criminal profits reflects the fact that, in Scotland, it is not only criminal confiscation that is available as a tool to try and recover those profits from organised criminals; in parallel, we have a civil recovery system, which is not dealt with by COPFS, but it also attempts to address the ill that Mr Findlay has identified. I do not have statistics for that, as that is outwith the control of COPFS, but the criminal confiscation figures that we have provided should be supplemented and understood, sitting alongside the civil recovery regime that also exists in Scotland.

Russell Findlay: That is helpful.

I wonder whether Mr Conway would like to answer that point from the police perspective. Is the proceeds of crime legislation robust enough, or could it be improved?

Superintendent Conway: Proceeds of crime is not my area of expertise. I am a former detective—I was a detective chief inspector for nine years, and I focused largely on organised crime and enforcement. We know that enforcement does not work in isolation.

My detective colleagues in the specialist crime division are heavily focused on organised

criminals. We know through organised crime mapping that drug trafficking remains the largest criminal market in Scotland. It is very lucrative. It is almost as if, as we take someone out and put them into the criminal justice system, they are replaced by someone else. A lot of investment goes into it, but proceeds of crime is not really my area of expertise. I am sorry that I cannot give you a detailed response about that.

Russell Findlay: No problem.

Another issue is that the general direction of travel is to treat Scotland's drugs problem—or drugs crisis—as a public health issue. As we know, however, a large number of serious organised criminals are making a lot of money out of the death of people across communities in Scotland and are inflicting violence on our streets. In one of the submissions that it made to the committee, the Crown Office lists a number of cases as examples of successful prosecutions against organised crime. One that stood out related to an individual who has not been identified—although it is apparent who it is just from googling—who has high-level links to organised crime, both in Scotland and overseas. The drugs that he was involved in had a multimillion-pound value. Ultimately, he was sentenced to eight years' imprisonment, which means, realistically, that he could be out after as little as four years. He is not a problem drug user, and this is not a public health issue—he is a high-level organised criminal. I just wonder, Mr McGeehan and Mr Conway, whether you think that the courts truly understand what needs to be done in respect of those people, who are making so much money from drugs.

The Convener: Mr McGeehan, do you wish to come in on that?

Anthony McGeehan: I can come in, but my comment is necessarily limited. Sentencing is a matter for the independent judiciary, rather than for me to comment on as a prosecutor.

Superintendent Conway: I do not have any strong views on the sentencing of organised criminals, and I am not familiar with that case.

Russell Findlay: According to a written submission to the committee, serious crime prevention orders, which I think were introduced in 2007, have been used on 70 occasions for those who have been convicted and on one occasion for someone who had not been convicted. Of those 70 who had the orders, 13 are now in the community and subject to monitoring. I presume that the other 57 will join them in due course. Does Police Scotland believe that it has sufficient resources to monitor those people effectively on their release?

Superintendent Conway: My knowledge of that area is limited. If it is okay, I will give feedback on that question in a written response.

Russell Findlay: Sure. I would be interested in knowing whether a stand-alone unit has the monitoring remit or whether it is put on to the divisions, which already have a lot of competing pressures and roles to fulfil.

The Convener: Thank you. If your questions are finished, I will move on. Louise Stevenson and Peter Krykant are keen to come in, but I ask them to be brief.

Louise Stevenson: If you want help to get off the drugs, you will get it, but nobody can help you until you are ready. That is the last thing that I want to say.

The Convener: Thank you, Louise.

Louise Stevenson: Thank you for giving me this opportunity.

The Convener: You are very welcome.

Peter Krykant: With the utmost respect to Mr Findlay, the questions that have been asked are the wrong ones. I would certainly look at whether we want to continue to be signed up to the United Nations international treaty on drug trafficking. We should also look at whether we can impact the long-term proceeds that go to criminal gangs at the moment by changing how we deal with the system. We have been trying for 50 years now. The 50th anniversary of the Misuse of Drugs Act 1971 was in May this year.

We can see a criminal gang getting sentenced and going to prison, or a bust that recovers hundreds of thousands of pounds-worth of heroin or street benzodiazepines, but that has no impact on the amount of drugs that are available on our streets. We had an international lockdown with restricted travel in and out of the country and all travel was restricted for a long period of time, but that had absolutely no impact on the amount of drugs that were available on our streets. At the same time, criminal gangs continued to be arrested and caught with illegal substances.

I ask Mr Findlay to have a look, please—if this country wants to stay signed up to the UN international treaty on drug trafficking—at whether we want to change the regulations on how we deal with drugs, drug trafficking and drug supply, because what we are doing is clearly not working.

The Convener: Thank you for that, Peter.

The next theme is policing and prosecution. We will look at the issues around decision making for prosecution and the response to the Scottish Drug Deaths Taskforce recommendations that were made earlier this year around zero tolerance and other issues.

Rona Mackay: I want to ask Superintendent Conway about the police referral system and the factors that are taken into account when deciding what action to take. I will then discuss the Scottish Drug Deaths Taskforce with Neil Richardson.

Superintendent Conway, can you give us an idea of how many referrals to services are made when your officers encounter someone who has been using drugs? I am not asking for an exact figure; I would just like to know the approximate level of such referrals. What do your officers look for? Could you tell us a wee bit about how they make that judgment at the time?

Superintendent Conway: I do not have a number for you, but in dealing with individuals in the community who have multiple complex needs, a large number of referrals are made to partner agencies in the statutory and third sectors. That is done predominantly through our vulnerable persons database.

A challenge that we experience in policing is the capacity of partners to respond. We know that statutory partners are struggling to meet demand. Often, their service provision is targeted at the most critical end of the spectrum. I know that work is being done in Government on a national care service and how we can make the system better.

Our officers deal with individuals in need day in, day out, 24/7. We identify a large number of people, whom we refer on to partners. The challenge is to do with wider system issues that mean that some people might not get the right service at the right time, when they need it.

Rona Mackay: Are you saying that, when you make referrals, you are told that no one is available to take the people concerned? Is that what you mean? How do you know that your partners are struggling?

Superintendent Conway: I think that our statutory partners respond really well at the most critical end of the spectrum, but when it comes to wider concerns in relation to adults and children who go to statutory partners, they need to prioritise their resources. I do not think that demand and capacity meet each other. That is often when our third sector partners fill the gap. There are probably opportunities to make improvements on some wider system issues in that area.

Rona Mackay: Would you be able to send the committee the approximate number of referrals that you make?

Superintendent Conway: Do you mean specifically in relation to drugs, or would you like an overview of the referrals that we make to partners with regard to people with multiple complex needs? I am happy to provide either figure.

Rona Mackay: I am interested primarily in the drugs figure. I do not know how easy it would be for you to get the other figures. It would be interesting to know, on the drugs side, how many people are being directed to services.

Is it up to each individual officer to make a judgment on whether someone should be referred? Are there guidelines for officers about that?

Superintendent Conway: As was mentioned earlier in the discussion, our officers are now more trauma informed and more aware of individual needs. There are no rigid guidelines for our officers. A lot of the time, the decision will be based on their training and their professional judgment.

Rona Mackay: Neil Richardson, could you give us an update on the work of the Scottish Drug Deaths Taskforce and the pilot schemes that have been running? I do not know whether you know much about the Medics Against Violence pilot programme in Inverness; if you do, could you tell us a wee bit about it, to give us a rounded picture?

11:15

Neil Richardson OBE (Scottish Drug Deaths Taskforce): I am happy to do that. The key work relating to criminal justice is wrapped up in the report that was published on 6 September on drug law reform, but what led to that was considerable consultation and discussion with a range of different groups. One of the first pieces of work that the sub-group looked at when we came together was a detailed systems breakdown of how things work, blow by blow and stage by stage, to identify the potential rubbing points and what might bring about a difference.

The pilot or pathfinder scheme that Rona Mackay mentioned, which is operating up in Inverness, pulls together some of the learnings from that work to bring what I described as that rubbing between demand and capacity closer together. It is clear from the evidence that we have that there is a lot of failure in demand—people were either referred but not then dealt with, or not dealt with in a timely fashion, or they were referred somewhere that was not appropriate and offered no real remedy for them. Such experiences break down the trust and confidence that individuals have in the statutory provision of support and help.

Therefore, when we talk about multiple complex needs and the complexities of the system, what Natalie Logan MacLean said so eloquently about using the term “person centred” but not really being person centred and the lack of care and

compassion in the system is all true. That is my experience from having done that systems breakdown and having worked with partners. It is not that anybody is trying to be malicious or not to be compassionate; it is just that we need to pull together an incredibly complex series of organisations that are trying to do their best in difficult circumstances and with limited budgets.

Ultimately, the task force and the pilot that Rona Mackay mentioned are trying to develop evidence to enable informed decisions to be made about where to allocate money, resource and energy. The hope is that we can employ what has generally been described as a navigator approach, as we have done in our overdose response, which has led to some really positive results. Medics Against Violence and the Scottish Violence Reduction Unit have been operating with navigator models for a considerable time, so there is a lot of evidence to draw on.

Similarly, the pilot in Inverness is, in effect, using a navigator concept to provide assertive and persistent outreach support to individuals who need it. Rather than just signposting or giving somebody a card that says that they should phone this organisation or go on to that website, which we know is ineffective except for a very small number of people, the navigator approach uses a more caring, empathetic, persistent and assertive way to pull together the facilities that are available for people who need support.

The task force is developing evidence, not just in that area but in all areas. It is a really hot area in which there are many views and many different opinions. We are seeking to hold on to and advise on remedies that are supported by evidence of successful outcomes, and then we hope to generate improvement in the short, medium and long term, because nobody expects that we can reform the law quickly. Some of the navigator activity is exciting because it is making a difference on the ground.

Rona Mackay: That is really interesting and helpful. Do you have an end point for that? Are you working within a timescale to produce that evidence?

Neil Richardson: Yes, there are different timescales. The task force is aiming towards producing a final report this time next year, so we have a year to run. We are very aware of the fact that a task force is not the solution. Our job is not to provide the ultimate endgame solution. The solution is within the system. Our job is to put a spotlight on things that can be accelerated or done better, to challenge existing thinking and ways of working and to bring about that stimulus for improvement.

We have a timeframe, and we hope that some of that work will be concluded by the time we come to write our final report. It might well be that evidence is still being gathered in some areas, but we hope that, if there is sufficient evidence, we do not wait. When we consider some of the things that we have discussed this morning, we can see that there is compelling international and, indeed, national evidence of very positive outcomes of measures—consumption rooms are a case in point. I guess that the question that we wish to ask is how much is enough. How much evidence do you require before you can take a decision on such issues? Given the scale of the drug deaths challenge that Scotland faces right now, we think that there is scope to be more ambitious by moving quickly, and we are keen to encourage that.

Rona Mackay: Thank you.

The Convener: I will bring in Jamie Greene before bringing in Collette Stevenson and Katy Clark.

Jamie Greene: I thank everyone who has spoken. I know that we do not have a huge amount of time left.

A number of times, people have mentioned the legislative framework that operates in the UK and, specifically, in Scotland, given that we have two very separate legal systems. I have a question for the Crown Office and Procurator Fiscal Service. The number of charges for the offence of possession has roughly stayed the same over the past five years—the statistics show a marginal increase from 9,700 to 10,000. However, five years ago, the number of diversions was very low—there were about 88—and there has clearly been a big shift in policy towards diversion, because last year there were more than 1,000.

Given that there has been a dramatic increase in diversions but the sad roll call of drug fatalities has also increased year on year, can we draw any conclusions about the success of the diversion concept in reducing overall harm and death from drugs in Scotland? Is there a correlation to be made there? In other words, has the policy been a success?

The Convener: I take it that that question is for Mr McGeehan.

Anthony McGeehan: The causes of drug deaths in Scotland are complex and have been examined—for example, by the Scottish Affairs Committee in 2019. A complex set of contributory factors has been identified and has been discussed during today's meeting.

When it comes to prosecutorial decision making, our focus is on trying to do the right thing, and the right thing will mean different approaches to

different offences and different accused persons. In 2019, the then Lord Advocate refocused prosecution policy and confirmed that diversion could be considered for all offences in which an identifiable need had contributed to the offending. Drug dependency or drug use may constitute an identifiable need. That refocusing or re-energising of prosecution policy resulted in the increase in diversions being offered in relation to simple section 5(2) offences.

I am satisfied that that was the right outcome in those cases and was in the public interest. Prosecutors will continue to apply that approach, in the hope of reducing harm and the wider impact of drugs on individuals and society in Scotland.

Jamie Greene: I will try to make my question clearer. There has been a year-on-year increase in the number of diversions from prosecution—there are arguments for and against the approach, but that is not the point of my question. There has also been a year-on-year increase in the number of people who, sadly, have died as a result of drug use. The number of diversions doubled from 500 to 1,000 in one year alone, which is a substantial increase. Is it too early to say whether the policy is working, from a public health point of view, or do we have sufficient data to make a correlation between the policy and the health outcomes?

Anthony McGeehan: I would not attempt to make that correlation, Mr Greene. I would use more individual examples of success and the impact that diversion can have on individual accused.

The committee might want to refer to the 2018 report on the prosecution of young persons that was prepared by the Inspectorate of Prosecution in Scotland. In its report, the inspectorate used three real-life examples illustrating the positive impact of diversion on individual accused. Those are useful reference points for the type of analysis that you propose. I will use one of those illustrative examples, which related to possession of drugs. It illustrates the trauma-informed approach that police officers and prosecutors are adopting.

One of the examples that the Inspectorate of Prosecution identified related to a young person who was found in possession of drugs in the vicinity of a school where drugs had been a problem. A police officer who was also a youth engagement officer took time to speak to the school and establish that the offender had been seeking help for drug addiction. In the police report, the police officer advised that the offender was remorseful and was being referred to a local addiction team, and they recommended to the prosecutor that diversion might steer the young person away from offending.

The prosecutor took that advice, and the social work completion report after diversion advised that the offender had engaged throughout and had started college. At the time of the inspectorate's report, that young offender had not reoffended. For me, that illustrates the positive impact that diversion can have on persons whom the police report to the Procurator Fiscal Service.

Jamie Greene: Thank you for that illustration. We all welcome any positive outcomes from such interventions.

Is there a role for the Crown Office to play in analysing what happens next? We often focus on the discussion about diversion but not necessarily on what we are diverting people to and the success of those programmes. Do we know how many of the 500 people who went through a diversion from prosecution in 2019-20 had a successful outcome? Do we know what percentage of them attended rehabilitation? Do we know how many of them reoffended or were back in the system and were included in the figure of 1,000 the following year? What sort of analysis does the Crown Office do on the continued monitoring of people who are diverted from prosecution?

Anthony McGeehan: When an individual who is diverted from prosecution completes the diversion programme, the Procurator Fiscal Service receives a report from Social Work Scotland on the success or otherwise of the person's engagement with social work and the diversion support services that were offered. COPFS can provide statistics to the committee on the outcome of the diversions for the 1,000 individuals who were referred for possible diversion in the last financial year.

Jamie Greene: My final question relates to a point that Peter Krykant raised. Not everyone who is stopped by police and who is involved in a single-charge possession case or commits a first-time possession offence would necessarily be classed as someone with an addiction. They might be recreational drug users and might not be suitable for the sort of diversion programmes that other witnesses have referred to.

What is the advice to police in that respect? How does the Crown Office and Procurator Fiscal Service differentiate and decide or analyse whether someone who is stopped and charged with possession would benefit from full treatment, diversion and rehabilitation or is simply a recreational drug user who is breaking the law? There might be a fine line between the two.

Anthony McGeehan: In the reports that the COPFS receives, Police Scotland has an opportunity to provide information on the vulnerabilities of an accused person, the

circumstances in which they were found in possession of the drugs, their criminal record or any other relevant factors in relation to the individual accused's circumstances and the offence. That enables prosecutors to select from a range of disposals, including but not limited to diversion from prosecution.

Prosecutors in Scotland have a wider range of disposals than prosecutors in other jurisdictions have. For example, we are able to select a warning, a fine, a diversion, a fiscal work order or, in some cases, prosecution. We can select from a menu of options to achieve the most appropriate outcome for the individual offence and the individual offender.

11:30

Jamie Greene: I wonder whether Police Scotland would like to answer the same question.

The Convener: Can I move things on and come back to you if we have time?

Jamie Greene: Yes, of course.

The Convener: I will bring in Collette Stevenson, Katy Clark and then Pauline McNeill.

Collette Stevenson: Mr McGeehan, I want to draw out more from you on what you were saying about prosecutions and diversion.

A pilot scheme for structured deferred sentencing was run in, I think, 2019 in Hamilton sheriff court. It was specifically aimed at women who were going through the justice system, as well as young people who were involved in low-level offending. You have talked about what is at your disposal in terms of sentencing and diversion. How well has that option been used? How effective has it been throughout the courts, and could we do better?

Anthony McGeehan: A structured deferred sentence is a sentencing disposal of the courts, and not a disposal of the prosecution service. That would be an assessment to be made by the independent judiciary, and therefore I cannot offer any comment on that type of deferred sentence disposal.

Katy Clark (West Scotland) (Lab): My question might also be one that the witnesses feel that they are not best placed to answer. We have heard that there has been a significant increase in deferral of prosecution; indeed, as you probably know, the Lord Advocate came to Parliament fairly recently to announce a significant policy shift in relation to class A possession. Is there evidence that the resource is being put in place to ensure that we can adequately deal with that change in policy? Is there any information about the increases that we are likely to see in deferral of prosecution as a result of that policy shift, which has obviously been happening over a long period of time?

I direct those questions to the Crown Office witness. It might be that Mr McGeehan can make some comments, but will feel that the Crown Office is not best placed to give a definitive answer.

Anthony McGeehan: I would differentiate between the recorded police warnings in the Lord Advocate's announcement and a decision to defer prosecution pending potential provision of support through a diversion programme. The two are separate.

Your question appears to be about the latter element, which is a situation in which the procurator fiscal receives a report, decides that diversion might be an appropriate disposal and refers the matter to the local authority. The local authority then assesses, first, whether the person is suitable for diversion and, secondly, whether there is a support programme that it can put in place for that person. Normally, that support programme would be allowed to run, and Social Work Scotland would report the outcome of that diversion or support programme to the procurator fiscal, for the procurator fiscal to make a final decision on whether prosecution should then take place.

That is a very long explanation to arrive at the conclusion that you anticipated, which is that, in relation to the provision of the resources to local authorities to deliver those diversion programmes, I am afraid that, as a prosecution service, we are not best placed to comment. Local authorities would be best placed to comment on whether they have sufficient resources to provide the diversion programmes that they would wish to in relation to offenders who are referred to them.

Katy Clark: I put the same question to Police Scotland. I take on board the point that local authorities might be better placed to answer this but, in Police Scotland's experience, is the resource being put in place, given that this is a significant shift in policy?

Superintendent Conway: I can say a bit about recorded police warnings, on which I have some statistics. Obviously, the Lord Advocate's guidelines changed at the end of September, so I do not have specific stats on the changes that relate to class A drugs. However, stats on recorded police warnings show that, between October 2020 and September 2021, Police Scotland issued 19,770 police warnings in total, 5,735 of which were in relation to drugs. Twenty-nine per cent of the recorded police warnings that we have issued across the board in the past year have been in relation to drug offences.

The use of those warnings clearly has a positive impact: individuals do not reach the Crown Office because the warnings divert them from that and it saves police time not to have to do full reports and so on. In terms of resourcing, there are positives for the individual and for our organisation in the use of those warnings.

Katy Clark: I have a question about legislation, but I am not sure whether it is appropriate to ask it at this point.

The Convener: I know that Mr Richardson would like to come in. I will then hand back to Katy Clark.

Neil Richardson: It is a really good question. As the task force works through the implementation of the recommendations, I will be keen to pursue the matter to ensure that we allocate and provide appropriate resources to help deliver effective outcomes.

One of the Auditor General for Scotland's most recent publications talks about community justice and, from my perspective at least, the report shows a number of significant findings. I am sure that the committee will be interested in the one around costs. Local authorities might question whether sufficient resource is in place generally, but we can see pretty clearly from the report that there is insufficient alternative resource, such as prison space. We have already seen a resurgence of pressure on prisons, which needs to be managed.

The Auditor General sets out in his report that it costs on average £37,000 to keep somebody in custody for a year. In contrast, the community payback order costs something in the region of £2,000 and the outcome measures that the Auditor General's report quotes indicate that, if reconviction is used as a sole measure, imprisonment has a 49 per cent reconviction outcome, as opposed to 30 per cent for the community-based sanction. If that statistic is at all indicative of a broader context that might or might not involve the matters that we are discussing this morning, it is influential evidence to suggest that public money is better spent on community-based remedies rather than on reverting to prison sentences.

Katy Clark: My next question is about the Misuse of Drugs Act 1971. The witnesses have made clear that wider social and economic issues are primary drivers of the drug problem, so the legislative framework around it is exceptionally important. People have talked about safe consumption rooms, for example, and a debate is going on about the legal framework around the issue.

In relation to the Misuse of Drugs Act 1971, what kind of changes are the witnesses looking for in the legislative framework? What do they believe can be done in the current legislation? Do they argue for the devolution of drugs policy and, if so, what real changes are they looking for? I will ask some of the campaigners first. Could Peter Krykant briefly outline where he thinks we need to move in relation to the legislative framework around drugs?

Peter Krykant: I will start with a short quote from Richard Lewis, who is the serving chief constable in Cleveland Police—I am sure that many people read this in *The Guardian*. He said:

> "When the state offers a meaningful alternative to the street drugs that can be bought from organised crime groups, the demand for them decreases."

It is great to hear a serving chief constable say that the war on drugs has been and is a failure.

As for the framework for safe injection facilities, we do not need changes to the 1971 act. The act talks about premises being used to prepare substances such as opium and cannabis to be smoked, which is why cannabis clubs have consistently been closed down. When I ran the safe injection facility in Glasgow, there was no police intervention, apart from a meaningless allegation of obstruction in the course of a search.

We could open facilities with a simple scheme to divert people into them. I know that Police Scotland officers saw people injecting publicly in alleyways and diverted them to my ambulance to inject in a safe and supervised environment, without the risk of HIV.

It is important to remember why safe consumption facilities were first spoken about in Scotland. The aim was not to reduce drug-related deaths but to address the HIV outbreak, which is on-going—we have the largest outbreak that the UK has seen in the past 30 years.

The framework of the 1971 act is a complete failure that needs to be scrapped. The act was introduced on the back of the American war on drugs, when President Nixon stood up in 1971 and said that we needed an all-out offensive. The UK tends to go along the same lines as the US.

Before the 1971 act, there were a couple of hundred heroin addicts in the whole UK. We knew who they were, and they were all given diamorphine-assisted treatment. Now, we have such treatment for 19 people in Glasgow, and I believe that the cost is pushing about £2 million. Nicola Sturgeon announced earlier this year that such treatment would be rolled out throughout Scotland, but we still have the same limited number of spaces, because the model is medically supervised.

We do not have to have medically supervised models, which cost so much to implement and run.

There are great examples of diamorphine-assisted treatment in other areas, where it is much cheaper. We consistently do so little of it that the approach remains very costly, especially if we use the medical model that is in place.

To wrap up, let us throw the 1971 act out of the water completely. Let us get out of the UN international treaty that the UK is still signed up to and which very few countries have left. Let us look to the four pillars model that is used in Switzerland. We often talk about the decriminalisation model in Portugal, but we could implement the four pillars model now in Scotland, without any changes to the 1971 act. Switzerland's implementation of its model for dealing with drugs has been so successful that it is now closing safe consumption facilities, because the demand for them is not there.

Katy Clark: I will put the same question to David Liddell. Do you agree with Peter Krykant?

David Liddell: I absolutely agree with Peter Krykant about the 1971 act. In the Scottish and UK context, the frustration has been about the focus on the act rather than on Scotland doing things for itself, particularly on recorded warnings. We gave evidence on that to the Scottish Affairs Committee.

As Peter Krykant said, there was no public interest in prosecuting him for the drug consumption room that he ran, and no prosecution followed. It is a ridiculous state of affairs that he can run such a service and not be prosecuted, but NHS Greater Glasgow and Clyde cannot run one, although it wants to.

We should proceed with drug consumption rooms in Scotland under the current legislation. We have pushed for a letter of comfort from the Lord Advocate to be issued for that, if it is required. We should not have just one drug consumption room in Glasgow; we should have them across the country, as has been said. They should exist alongside a range of other interventions. British Columbia has had drug consumption rooms across its area, alongside medication-assisted treatment and a range of other interventions. We need to look at that. Another point is about peer supply of naloxone. We have been working hard to get naloxone out to everybody and to make sure that people carry it.

11:45

A final and wider point, which goes back to the issue of police recorded warnings, is about the need for a move in the direction of a social inclusion model. Peter Krykant alluded to that in talking about countries such as Switzerland and Portugal. It is particularly important that people who have a problem with drugs are not caught up in the criminal justice system for possession. Earlier, I made the wider point that most people in the prison system with a drug problem are there because of petty theft, such as housebreaking or shoplifting, and we need to do far more to keep those folk out of the criminal justice system.

Overall, I agree with Peter Krykant's analysis, but the problem is that the Misuse of Drugs Act 1971 is UK legislation and we can bang on forever about the need to reform the 1971 act, but we need—very quickly—to do things for ourselves in the meantime.

Katy Clark: We are short of time so, if other campaigners or those with lived experience have a different view or approach, it would be useful to know but, if not, perhaps the Crown Office could be asked whether it believes that safe consumption rooms are possible within the current legislative framework.

The Convener: I am happy to do that. I will bring in Pauline McNeill, who is keen to ask questions on prosecution and is interested in safe consumption rooms.

Pauline McNeill (Glasgow) (Lab): Thank you, convener. My area of interest is probably wider than that, and I am struck by how much work is going on. From what I have heard this morning, we have a great deal of evidence and lived experience, and we have heard a lot about the causes or what needs to be done. I am clear about the role of diversion, which all the papers talk about, and about the role of consumption rooms, which Peter Krykant has been running and which we have debated in the Parliament. It would be helpful to get some guidance from Neil Richardson and Peter Krykant about what they think legislators could prioritise. There are so many frameworks and organisations, so I would like to focus on the top two or three things that legislators need to do in order to build on the work that has been done and tackle the horrendous situation of Scotland having the highest number of drug deaths.

Neil Richardson: That is a difficult question to answer because, effectively, the report on drug law reform recommended that we need to do the analysis that would generate that answer. The finding is that the 1971 act is somewhere between being no longer fit for purpose and being in need of significant reform. However, the devil that is in the detail is the extent to which that is the case and what the priority should be.

That said, there is a fairly clear emphasis from the evidence that we have gathered to date around the multiple and complex needs surrounding all of this, which must be reflected in whatever legislative change is made. That is important, particularly when we look around the landscape in Scotland and realise that, post-

Covid, significant changes are being proposed and worked on. The real risk is that those changes happen in isolation. They include the national care service, the new strategy for community justice—which is being worked on and consulted on right now—and the work of the task force, which has spent the past couple of years gathering evidence in order to find priorities. I am not sure that those things are as joined up as they need to be, particularly now that elements of criminal justice are being proposed for incorporation within the national care service, which involves a fundamental change to accountability and governance arrangements. All of that is important when we talk about how this fits in a post-pandemic Scotland.

The timing is important as well, because we do not want to replace legislation that has largely fallen out of favour because it no longer fits the needs of today with hasty legislation that does not properly reflect the needs of tomorrow. That is part of the reason why the task force has set out a phase 2, which is a broader public consultation, which should be—

Pauline McNeill: I will interrupt you there, if you do not mind, because that is the problem that I am struggling with. I commend you on the work that the task force has done—I did not know about any of it until I read the papers. However, it needs to be boiled down for us as legislators. We have a task force, frameworks and joined-up working. As a legislator, I need to focus and to boil it down in ordinary terms to the two or three things that need to be actioned. That is what I am driving at.

Neil Richardson: In the task force report, there are some examples, although I am not sure whether they are the priorities. In moving towards a more public health approach to the challenge, as we seem to be doing, there are particular obstacles in the current legislation. We have talked about consumption rooms, which is one issue on which there is an obstacle. The evidence is there to support consumption rooms, and there is definitely an appetite for them, but the law as it stands does not allow them.

A more informed way to test for the drugs that people are using would mitigate harm, but the legislation prevents that from happening. Pill presses are a real issue. The drugs are changing all the time. Street benzos are the biggest issue that we are battling with right now, and it is easy to manufacture them, because there are no controls or restrictions—at least, no effective ones—around pill presses. That would be another easy issue to deal with.

For good reason, there are tight controls on prescribing but, as we move towards informed stabilisation arrangements that involve the third sector and others in providing meaningful support for people with addiction, it becomes more and more challenging if we have very tight arrangements for the prescribing of drugs. Of course, we are in the middle of a recruitment crisis that just compounds that.

Those are some examples. They are developed in more detail in the report, which is freely available on our website. I hope that that provides at least a start. However, I come back to the point that I certainly would not want to recommend that we grab on to a few of those, because the risk is that we end up with legislation that is not as rounded or sustainable as it needs to be to deal with this really wicked problem.

Pauline McNeill: Thanks—that is helpful.

Peter Krykant said in his opening statement that he was not a drug user when he was 16 and in care. The Transform Drug Policy Foundation submission states that 13 per cent of people in prison were not drug users before they went to prison. There is quite a big theme about people ending up taking drugs because they are in prison or in care or whatever. Mr Krykant, what else should we be doing to prevent that? What should the Parliament's priority be in building a wider strategy that will make a difference on Scotland's drug deaths, which I suppose is what Neil Richardson has talked about?

Peter Krykant: Within the current frameworks, it is difficult to take any legislation through the Scottish Parliament on things such as safe consumption facilities, as it would most likely be challenged by the UK Government in the Supreme Court. As Professor David Nutt has said on multiple occasions, we need to go ahead and open those facilities. What are they going to do once they are open? Send in the tanks? We simply need a memorandum of understanding to go ahead in the current circumstances, given that safe injection facilities do not break any provisions in the Misuse of Drugs Act 1971, apart from those on simple possession, which can now be dealt with by the lack of prosecution for possession of class A substances.

I understand the frustrations with papers and task forces—multiple papers and this arm of that task force and that arm of this task force. I am not an academic. If I had the ability to make some changes, I would take the prescribing services that are currently in the hands of the national health service and tackle the fact that we are risk averse when it comes to prescribing in Scotland. I disagree with Neil Richardson in relation to pill presses. That is a fallacy. We are never going to stop illegal or illicit drugs being distributed on our streets—it does not matter whether the legislation around pill presses changes. We need to give people an alternative to street drugs in quantities

that are enough for them not to have to seek out an illicit supply chain.

I have already mentioned the medical model of diamorphine-assisted treatment that is used in Glasgow and its extortionate costs. We already have UK-based models that cost less than a third of the one that is currently being delivered in Glasgow. We want to see people in Falkirk, Stirling and other places have that treatment as an option. Diamorphine-assisted treatment should also be available in the prison system. The written evidence that I submitted on behalf of Cranstoun includes a link to a 15-year study of diamorphine-assisted treatment in the Swiss prison system.

We could implement all those things without introducing any legislation. We need to start taking action right now to get those things done. It is not good enough for the First Minister to have stood up in Parliament on 20 January 2021 and announced a wider roll-out of heroin-assisted treatment throughout the country and yet for us to be coming up to the end of 2021 and still have only a limited amount of spaces in Glasgow. That is because it so expensive—£2 million per year—and the budget is already stretched.

I saw an advertisement for a front-line service worker in the drug crisis centre in Glasgow with a salary of just £18,278. That is absolutely ridiculous. We need minimum wages for people working in those services so that we can attract people into the service and keep them working in that environment. In my experience, the pain and trauma that you see on a daily basis working in that arena is very difficult to deal with, and it is ridiculous that people cannot even buy themselves a coffee from Caffè Nero because they are being paid so little. No one gets into that work for the money, but people need to get enough to live on.

Those are the priorities that I would address right now.

The Convener: Thank you. We have several witnesses who are keen to come in, and we are starting to cover a broad range of issues.

David Liddell: I want to pick up on the point about what we need to do now. I know that it goes wider than the criminal justice system and includes the implementation of the medication-assisted treatments standards. The Government set the deadline of next April to deliver those. That is the most important bit. Currently, only 35 per cent of the 60,000 people with drug problems are in treatment, whereas in England, more than 60 per cent of those people are in treatment. We should be looking to get to that level.

Part of the issue is that we have been unable to control the drug problem. As Louise Stevenson mentioned, we have seen a shift towards an increase in crack cocaine use, particularly among long-term heroin users. We need to have more people in treatment and services to help them in the long term, and then we need to look at wider issues.

I want to pick up some of the criminal justice aspects that we have not spoken about so far, such as continuity of care for people going into prison, certainly with regard to throughcare. Over many years, there have been various incarnations of throughcare, and we need to look again at that issue in particular.

12:00

We also have drug treatment and testing orders, which have, in my view, been very effective for a small group of people. DTTOs are targeted at people as an alternative to custody, but in Edinburgh there is also the DTTO II, which is for other offenders. We should look at expanding those programmes as well.

The Convener: I will bring in Becky Wood—as briefly as possible, please—followed by Superintendent Conway.

Becky Wood: David Liddell has covered a lot of what I was going to say, so I will be very brief.

I want to ensure that the committee hears the voices of the people whom I represent on behalf of the Scottish Drug Deaths Taskforce. There is a range of people who have experience of drug use and prison, and all sorts of life experiences related to that. There is definitely a consensus among them that the support that people require when they have a drug problem is not catered for when they are in prison. There are some projects that are doing great work, but support is not consistent or standardised.

If someone arrives in prison with a drug problem, and even if they do not have a drug problem but they are feeling frightened and alone in their cell, it is not surprising that they gravitate towards, and feel supported by, those who use drugs and have drugs available for them to help ease that pain.

We need robust national systems that can provide support for that lived experience within the jail and offer some sense of hope to people in prison. As David Liddell said, that support needs to follow on once a person is released from jail.

I want to let people know that the MAT standards should be implemented in jails as well. We need to look at how that happens and ensure that the standards are utilised in the jail. Those options are not currently available, and we need to ensure that the standards are implemented in exactly the same way for residents of prison as they are on the outside. That is still work in progress—I saw that Natalie Logan MacLean was

shaking her head. We have to ensure that the MAT standards are implemented in jails as they will be in the community.

The Convener: I will bring in Superintendent Conway, followed by Natalie Logan MacLean. I ask you to be brief, if you can.

Superintendent Conway: I will keep it brief, convener. I want to support the point that Neil Richardson raised about trying to join the dots. There is significant work on-going in Government around Covid recovery and a national care service, and on getting it right for everyone. Those pieces of work are interconnected, and there is an opportunity to join the dots better.

When I look at some of the funding that has been allocated to drugs, alcohol, mental health, suicide, violence, poverty, homelessness and jobs for young people, my impression is that the joining of the dots and the connection between those funding allocations could probably be stronger. There is an opportunity for Government to try to connect some of those funding streams. That would probably provide better value for money, because a lot of those issues are public health issues. On many occasions, all the funding has been targeted at the same people and the same families; we end up having to label or pigeonhole people with a symptom rather than trying to tackle the root causes.

The Convener: I will bring you in briefly, Natalie, then I will move the discussion on. Before we round the session off at 12.30, I want to cover drugs in prisons and naloxone.

Natalie Logan MacLean: I wanted to come in because we were discussing routes of diversion. For me, it is about where we divert people to, if we are talking about the police level and the fiscal level. All services are saying that there are no methods of diversion and are asking where they can divert people to. What will happen is that police officers will become social workers.

The Convener: I am conscious of time so I will move the session on. It has been a very helpful discussion. We will now look at issues to do with drugs in prisons, which a number of members want to focus on. I will come back to Pauline McNeill, who is interested in picking up on this, then I will bring in Rona Mackay.

Pauline McNeill: I wonder whether anyone has any comments on the 13 per cent of prisoners who enter prison with no previous history of drug use but start using drugs in prison. I find that worrying. As well as supporting people who are already on drugs when they go into prison, we need to worry about the 13 per cent. Why is that happening and what should we be doing about it?

The Convener: I will bring in Neil Richardson on that.

Neil Richardson: I am not sure that I can provide any meaningful commentary on that.

The Convener: Would anyone else like to come in? I am happy to bring in anybody who would like to make a comment.

Becky Wood: It is not surprising that people without a drug problem end up using drugs when they go into prison. Prison is a frightening, lonely place without support for people. As I just said, the support that you get in prison is often from other prisoners, who might have access to drugs that help to make people feel better in that frightening environment. I advocate that we try to support people before they go into prison so that they do not end up in that position.

I do not know what the answer is other than to make sure that services are provided that look at people's mental health and safety while they are in prison and offer an alternative to using drugs.

The Convener: I think that Natalie Logan MacLean and David Liddell want to come in.

Natalie Logan MacLean: What I have witnessed when working in prisons over the past six years is that prisons are a hyper-stressed environment. They are chaotic at times and individuals often cannot find any peace within the prison walls due to the levels of chaos.

We must remember that there is more time to think and there are fewer distractions in prison, especially during the pandemic, when people have been locked up for 23 hours a day. Given that more than 80 per cent of men and women in prison have previously been traumatised, if someone is locked up with only their thoughts, they will look for a coping strategy and it will not be a positive one.

From research on academic scoring, we know that 47 per cent of the individuals who are currently in prison have the literacy and numeracy levels of children under the age of 11, so they cannot read or write letters to family members or do in-cell activities by themselves. We need to consider boredom as being one of the biggest issues around people using drugs in prison. There is also an element of peer pressure.

David Liddell: I do not really have anything to add to that. I talked previously about people self-medicating. There is an issue with people using drugs as a coping mechanism, but Natalie Logan MacLean is right that there is a range of other issues, too.

Rona Mackay: I have a question for Leeanne Hughes. The submission from Sacro and Shine says:

"From April-September 2021, 63% of all prison referrals in Shine related to women on remand."

Those women are usually on remand for low-level offences, and some of them have

"serious drug dependency problems and may also be on a methadone prescription".

I do not think that such women should be anywhere near prison.

The submission also states that, during their sentence, women's tolerance to drugs reduces, and problems arise if women who are released use drugs in the same way as they did previously, which can result in overdoses. It says that the problem of women overdosing has been exacerbated during Covid, because of the lack of access to GP services. Could you expand on those points, please, Leeanne?

Leeanne does not seem to be there. Would anyone else like to respond until she returns?

The Convener: Peter, would you like to come in on that?

Peter Krykant: It was actually Pauline McNeill's point that I wanted to come in on, but I would be happy to respond to Rona Mackay's question until someone else comes in.

Pauline McNeill mentioned the fact that 13 per cent of the prison population had not had a drug problem before they went to prison. The simple reality is that people will enter the prison system for various offences that are not related to drug use or problematic substance use and will start using substances while they are in the prison system. The issue is how we stop illicit substances getting into the prison system, just as we need to stop illicit substances getting on to our streets. It is a case of giving people the medication that they need so that they do not have to use illicit substances.

I go back to the point about the diamorphine-assisted treatment that is used in the prison system in Switzerland, where people do not show any extra comorbidity issues. There is a work-based system in the prison in question. The people concerned do not have any more time off work. They can exit the prison system on their diamorphine-assisted treatment and continue to live healthy, productive lives. The way in which we address the fact that 13 per cent of the prison population start to take substances while in prison is by not having the demand for illicit substances in the prison system, just as we need to remove the demand for illicit substances outwith the prison system.

Rona Mackay: Thank you for that.

I go back to the fact that the submission from Sacro and Shine says:

"63% of all prison referrals in Shine related to women on remand."

That is a high number. Some of those women are seriously addicted at that point. Do you agree that prison is not the place for women who have committed low-level offences because of their addiction problem?

Peter Krykant: Prison is not the place to send women—or, indeed, anybody—for low-level crimes that are committed in connection with problematic substance use. There is no point in sending someone to a prison cell when they need to have a social, psychological support system in place. People often become abstinent when they are in the prison system. Often, people who revolve through the prison system will have engaged with methadone, buprenorphine, mutual aid recovery groups and recovery communities, but that does not stop them revolving through the system. It is just not appropriate to send people with such problems to prison.

12:15

I recently saw a story about a young man who was sent to prison for 23 months for having a few cannabis plants. We should be employing that guy, not sending him to prison. The UK is already the biggest producer of cannabis and we need to think about what we are doing just now and look at examples coming out of America. Even though we have the Misuse of Drugs Act 1971, we have taken on board some of the things that came out of America. Lots of states in America have a regulated cannabis market. Oregon has fully decriminalised all drugs. We need to look at examples from around the world to see how to deal with this rather than using an outdated system of prison, release, prison, release.

In the supervised consumption site in Glasgow, we often supported people who had just come out of prison abstinent from drugs but had gone back to street drug use.

Rona Mackay: I see that we have Leeanne Hughes back online. Leeanne, I do not know whether you heard my question. I will not go through it all again. Your submission refers to women whose tolerance to drugs reduces during their sentences, and they often overdose when they come out. You say that that has been a problem during Covid because of the lack of access to GPs. Could you expand on that, please?

Leeanne Hughes (Sacro): I see this countless times. Women who are in for varying lengths of time get themselves clean and, when they come back out, they have to wait for appointments with addiction services. Getting reregistered with a GP is nigh on impossible, so they turn to what they know and what they are used to, which is,

unfortunately, problematic drug use. Before we know it, the cycle has started again. They go back to offending and prison for whatever length of time. They come back out and they have lost their housing and their benefits and their family members are not speaking to them so there is no support network there for them.

It is a huge problem. Sending those females to prison serves no purpose at all, in most cases.

Rona Mackay: I am conscious of time so I will finish there.

The Convener: Becky Wood and Neil Richardson want to come in.

Becky Wood: I just want to go over the point about women in prison. It is well understood that the majority of women who are in prison have often ended up there because of abusive partners or partners who are mixed up in criminality, especially if it is to do with addiction. I agree that prison is not the answer to that particular problem. It creates more problems and a cycle of addiction and criminality. It also costs a lot of money, because children often have to be kept. There has to be a better way of dealing with women in the criminal justice system. It needs to be something that is more supportive and in the community, and it needs to provide the help and support that those individuals need so that they can manage their lives outside prison.

Neil Richardson: I support the comments that have been made already. Although they are relevant to women, they also apply to men. The task force took the view that, in the prison context, some specific and eminently deliverable actions could be taken. One is throughcare, as has been mentioned already. We have experience in Scotland of running pilots and developing the understanding and outcome evidence whereby we would have third sector people in prisons forming a non-authority figure. Relationships can be started with individuals prior to their release, and connections can be made to assist them through the release process. Again, that could and should be reintroduced.

The second point relates to Friday release. I understand that that is being acted on, which is positive. A very real issue has been highlighted in relation to individuals falling back into old habits and old contacts contacting people on their release, when they are vulnerable and prior to their receiving support. Therefore, Friday release is not helpful, particularly as services are in the main closed during the weekend.

The final recommendation is on alternatives to custody, particularly in relation to remand. A lot of pressure is caused by the remand population, and there are alternatives that could be deployed that would enable more meaningful support for the individuals concerned.

Those are already recommendations. They are absolutely applicable to females, although I point out that they are general.

The Convener: Katy Clark has some questions, and after that we will move on to issues around naloxone use.

Katy Clark: I want to pick up on a couple of the points that have been made. Peter Krykant spoke about the production and supply of drugs. As he knows, at the moment, the issue of drugs is completely tied up with organised crime, and a lot of the money ends up in places such as Afghanistan. Does Mr Krykant believe that it would be possible to bring the whole production and supply process into a legal framework that would not involve organised crime and despotic regimes? That seems to be the model that he is advocating, but is it completely possible? I can see how it might be possible in relation to drugs such as cannabis, but is it feasible for drugs such as heroin?

Peter Krykant: I will point people towards a couple of references. Professor Alex Stevens from the University of Kent has a TED talk that is about progressive decriminalisation. There is a book from the Transform Drug Policy Foundation called “How to regulate Stimulants—A practical guide”.

The question of the regulation of all substances is often thought of as being too difficult to ask politically. When we talk about the regulation of all substances, we are not talking about jumping from a criminalised market to regulation; it is about progressing towards decriminalisation and then towards regulation. Regulation does not mean that we will see signs saying “Buy Your Heroin Here” or “Buy Your Cocaine Here”; it simply means that people who have problematic issues with the substances that are regulated and therefore taken away from the criminal gangs will have a route to get those substances.

We should look to the past and the prohibition of alcohol and at what we have learned from the regulation of alcohol and of nicotine and tobacco. We can implement those regulation techniques in regulating all substances. We are not going to start advertising cocaine on football shirts, as we did with alcohol and tobacco products 20 or 30 years ago—or even just 10 years ago. We would restrict the products within a regulated market.

There is so much to think about. It is not just about the proceeds of crime in Afghanistan; it is about the little farmer who is supporting his family. In Afghanistan and other places such as Mexico, organised criminal gangs threaten the little farmer, who is just making a living for himself and his family. We then go to the street-level drug dealer,

who is often supporting a drug addiction and making just enough money to put in their electric meter so that they have heat and can cook.

How do we regulate substances without impacting those chains of supply and without big, multinational conglomerations coming in, taking over the market and turning it into a business, like many other things that are associated with drug dependency? For example, many residential rehabilitation centres are now businesses. They are money-making organisations rather than points of contact and social-psychological support networks for people who do not want to move towards abstinence-based recovery, as residential rehabilitation was originally designed to be.

We need to move away from drugs being a business and ensure that they are regulated correctly. I hope to see that in my lifetime. I do not think that I will, but I hope at least to see a fully decriminalised market with a move towards a progressive and regulated one.

Katy Clark: We are not really talking about something that is equivalent to fair-trade coffee, then. You said that you were worried about the small farmers. However, they are not the ones who make big money out of the drugs industry; it is the drugs cartels, which are dripping in money and blood. The challenges are massive.

Peter Krykant: I understand that. Organised criminal gangs make money from drugs. They are dripping in blood and have the deaths of people on their hands, including small farmers and small street dealers. However, we never get the kingpins. We get the small-time street dealers, who are locked up for long periods and then come out to the exact same situation.

A lot of the conversation is focused on that debate. The small-time street dealers are often targeted as the really bad people—the ones who sell the drugs to others—but, ultimately, they are not; the organised criminal gangs are. If we want to take the drugs industry out of the hands of the organised criminal gangs, we need to look to what the serving chief constable of Cleveland Police said a couple of days ago in *The Guardian*: the war on drugs has failed. We really need to give an alternative to the illicit drugs if we are going to have an impact and dissuade the criminal gangs.

Every time that a criminal gang gets busted and taken out and we see a police report on Twitter about police having seized £500,000-worth of heroin, another criminal gang is waiting in the background going, “Yes!” It creates a turf war, it creates more death and misery and another criminal gang gets even stronger. There is never a disruption in the supply chain. I have said before that, despite international lockdown, restrictions on travel in and out of the United Kingdom for a long period through the Covid pandemic and police still continuing to try to disrupt the supply chain, we still did not impact the availability of drugs on the street. There was still as much drugs on the street as there ever has been.

Katy Clark: You make that point powerfully. Those are important issues. Thinking through the detail is part of the discussion that we need to have about what alternatives there might be to the current legislative regime.

I have a question for the drug deaths task force. We have discussed prisons and the massive challenge that we face. The biggest changes over the past five decades have probably been in the level of drugs misuse in society that is connected to crime and the level of drugs within prisons, which impacts on how the Scottish Prison Service is able to manage prisons. Have the recommendations that were made in April 2020 about adequate provision for prisoners after liberation been implemented? That question is for Neil Richardson.

The Convener: Mr Richardson, could you make your comments fairly brief? I would like to cover some issues on naloxone before we finish.

Neil Richardson: I am happy to do that.

I am not sure whether we have a task force position on the question per se. Besides being a task force member, my day job is as chief executive of a third sector organisation that is heavily involved in this space. I refer you to my comments on throughcare.

A gap clearly remains around adequately supporting people before, during and after a term of imprisonment. That should be eminently resolvable and we have evidence to draw on about what really works and makes a difference. I believe that there is still work to be done in that area.

12:30

The Convener: Thank you. Our last area of discussion is on issues around naloxone and I ask Superintendent Conway for a couple of comments. The Police Scotland submission on the current test of change for naloxone was helpful and provided an update. I am aware that the process has not yet concluded, but it was helpful to understand a bit about how that wider programme will support issues around awareness of stigma and greater involvement in change within Police Scotland. One of the comments in the submission relates to public perceptions of the carrying of naloxone by police officers, which have generally been very positive. How important is that community consensus and support? Will you also say a little about some concerns that have been

raised by the Scottish Police Federation about police officers carrying and using naloxone, bearing in mind that the carrying of naloxone is voluntary?

Superintendent Conway: We are not the first police organisation in the UK to use naloxone, but we are probably the first organisation to use it on this scale. I know that there are some opposing views from colleagues in the Scottish Police Federation.

My understanding is that 14-year-olds and upwards can access take-home naloxone. Significant investment went into training our police officers in the carrying of nasal naloxone and we have it in five areas of Scotland just now. I think that the submission refers to 46 administrations; as of today, we have used it 50 times. My personal view is that that has potentially saved 50 lives, but I do not want to pre-empt the conclusions. The programme is subject to academic evaluation at the moment. We are hoping to have a report to towards the tail end of the year or perhaps at the beginning of next year. On the back of that, our drug harm reduction team will look at any learning from the evaluation and make further recommendations to the chief constable and the force executive about the way forward.

It is important to me that we police by consent. Public opinion and confidence in policing is really important. There is not a lot of negativity coming our way about the police use of naloxone, with the exception of the Scottish Police Federation's views on police officers carrying it. My personal view is that 50 lives have potentially been saved, but we would like to see the evaluation and what opportunities that presents to move the programme on further. We are fully supportive of take-home naloxone, working closely with our partners and doing a lot of wider training in awareness across the organisation. At the moment, we are designing cards that will encourage potential overdose cases and their family members to make use of the take-home naloxone, which has been really successful. Awareness is spreading across the country, we are frequently contacted by partners and we are signposting them to the right organisations to access the naloxone.

The Convener: Do you know whether the report that you mentioned will be published and publicly available?

Superintendent Conway: I do not. I asked about the timeline for that, but we do not have a specific one. I will get clarity on whether it will be a public-facing report, which I think that it will be. There are in the region of 13 other police forces in the UK and some international forces in contact with us and actively awaiting the outcome of the evaluation. I have a couple of actions to submit written submissions to the committee and I will clarify that point.

The Convener: That is very helpful.

We would love to continue the discussion, but we have run over time. I give grateful thanks to all our witnesses. There was some powerful, insightful and helpful testimony and personal accounts. If any witnesses have anything outstanding that they would like to share with the committee, please do so in writing and the committee will take that evidence into account.

That brings the public part of our meeting to a close. We meet again on 3 November to continue taking evidence as part of the pre-budget scrutiny process, when we will hear from the Crown Office and Procurator Fiscal Service and the Scottish Prison Service.

12:36

Meeting continued in private until 13:00.

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

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