OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

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Wednesday 8 March 2023

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CRIMINAL JUSTICE COMMITTEE

8th Meeting 2023, Session 6

CONVENER

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

DEPUTY CONVENER

*Russell Findlay (West Scotland) (Con)

COMMITTEE MEMBERS

*Katy Clark (West Scotland) (Lab)
*Jamie Greene (West Scotland) (Con)
*Fulton MacGregor (Coatbridge and Chryston) (SNP)
*Rona Mackay (Strathkelvin and Bearsden) (SNP)
*Pauline McNeill (Glasgow) (Lab)
*Collette Stevenson (East Kilbride) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Keith Brown (Cabinet Secretary for Justice and Veterans)
Professor Michele Burman (University of Glasgow)
Detective Chief Superintendent Sam Faulds (Police Scotland)
Dr Claire Houghton (University of Edinburgh)
Amanda Masson (Harper Macleod LLP)
Vivienne McColl (Scottish Government)
Craig Naylor (HM Inspectorate of Constabulary in Scotland)
Moira Price (Crown Office and Procurator Fiscal Service)
Dr Marsha Scott (Scottish Women's Aid)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 8 March 2023

[The Convener opened the meeting at 09:47]

Decision on Taking Business in Private

The Convener (Audrey Nicoll): Good morning and welcome to the eighth meeting in 2023 of the Criminal Justice Committee. There are no apologies.

Our first item of business is a decision whether to take in private item 6, which is our review of the evidence that we will hear today. Do members agree to take that item in private?

Members *indicated agreement.*

Subordinate Legislation

Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2023 [Draft]

09:47

The Convener: Our next item is consideration of evidence on an affirmative instrument, and I welcome to the meeting Keith Brown, Cabinet Secretary for Justice and Veterans. I also welcome Vivienne McColl, policy manager, international justice co-operation unit and—joining us remotely—Ruth Swanson, legal directorate, Scottish Government.

I refer members to paper 1 and invite the cabinet secretary to make a statement.

The Cabinet Secretary for Justice and Veterans (Keith Brown): Thank you for the invitation to give evidence on the draft Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2023. I will make a brief statement about the order and the issue of mutual legal assistance.

The order mirrors the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2022, which, in this area of law, allows collaboration across the United Kingdom jurisdictions to support cross-border operations and co-operation. In an increasingly interconnected world, where crime operates without borders, it has never been more important to ensure robust international co-operation to promote justice and to help maintain public safety. The order will enhance our international judicial co-operation framework specifically in relation to mutual legal assistance. Before I explain its contents, it might be helpful for me to outline the context in which the order has been made.

Mutual legal assistance is the formal name for how states request and obtain assistance in other jurisdictions to investigate or prosecute criminal offences. The UK as a whole is a party to the Council of Europe’s 1959 European Convention on Mutual Assistance in Criminal Matters and its additional protocols, which form an essential part of our fight against crime and our co-operation with other contracting parties in relation to criminal proceedings. MLA, as it is known, is an important tool in domestic criminal proceedings and against transnational and international crime.

The second additional protocol to the 1959 convention broadens the scope of available mutual legal assistance among contracting parties and includes specific provisions on requests for hearings by video or telephone conference, joint

investigation teams and the temporary transfer of prisoners. As the member of the Council of Europe, the UK ratified that additional protocol in 2010.

In our domestic framework, mutual legal assistance is governed by the Crime (International Co-operation) Act 2003, which states that, for us to request and facilitate certain types of mutual legal assistance, the country must be designated as a "participating country", as defined by section 51(2). The purpose of the draft order is to designate as participating countries Liechtenstein, Luxembourg, the Republic of Moldova, Switzerland, Turkey, Armenia, Chile and Ukraine. All those countries have ratified the second additional protocol to the 1959 convention, and their designation will allow us to co-operate with them in relation to specific types of mutual legal assistance.

I should say that the order only establishes the ability to provide certain types of assistance to or seek them from the referenced countries; it does not create an obligation to do so. Incoming mutual legal assistance requests from a designated participating country are reviewed by the Crown Office in line with existing practices, including a human rights assessment provided by the Foreign, Commonwealth and Development Office.

I will now detail the specific effect of the provisions for which those countries are to be designated. First, designation for the purposes of section 31 and paragraph 15 of schedule 2 to the 2003 act enables us to assist in requests for a person within Scotland to give evidence by telephone in criminal proceedings before a court in a participating country, in circumstances where that witness gives their consent.

Designation for the purposes of sections 37 and 40 of the 2003 act enables the Crown Office, on request from a participating country, to obtain customer and account information to assist an investigation in the participating country. Designation for the purposes of sections 43 and 44 is a reciprocal provision that enables Scottish authorities to make requests for similar information to a participating country. Additionally, designation under section 45 provides that requests for assistance under sections 43 and 44 must be sent to the Lord Advocate for transmission, unless the request is urgent. Finally, sections 47 and 48 make reciprocal provisions for the temporary transfer of prisoners to or from a participating country to assist with an investigation, provided that the prisoner has given their assent to the transfer.

The draft order will help strengthen our own ability to investigate and prosecute criminality at home and abroad, as mutual legal assistance is a key tool in combating cross-border crime and ensuring justice for Scottish victims of crime. It is important that Scotland, as a good global citizen, plays its part in facilitating international justice co-operation to combat criminality. Being a good global citizen also entails standing with our friends to defend the rules-based order.

In that vein, I emphasise that the draft order deliberately does not designate Russia. Following the invasion of Ukraine, the Council of Europe expelled Russia, a decision unprecedented in the council's 73-year history. Although Russia ratified the second additional protocol in 2019, the Russian President, Vladimir Putin, announced on 18 January that he had begun the legislative process of terminating Russia's participation in 21 international agreements associated with the Council of Europe, with retrospective effect from 16 March 2022, the date of Russia's formal exclusion from membership of the council. We understand that, as yet, nothing has been lodged formally and my officials are awaiting formal confirmation, but Russia's unprovoked, premeditated and barbaric attack against Ukraine, a sovereign democratic state, removes any basis for the mutual trust and respect for international law that are essential for international judicial co-operation. We are therefore not seeking to designate Russia at present.

We remain committed to improving the provision of mutual legal assistance across borders, and the order will enhance the level of co-operation that we can offer to—and seek from—other countries. I hope that these remarks will be helpful to the committee and I am happy to try to answer any questions.

The Convener: Thank you very much indeed, cabinet secretary. We will move to questions from members.

Pauline McNeill (Glasgow) (Lab): Good morning, cabinet secretary, and thank you for the summary of the instrument in front of us. I do not have any particular issues with supporting it and I welcome what you have said about the UK and Scotland not recognising Russia in the provisions for assistance.

From the paperwork, I am trying to ascertain what level of crime the order would cover. Would it cover all crime? From what you are saying about the Lord Advocate being involved in certain proceedings, I assume that we are talking about more serious crime. Given the provisions in relation to bank account information, is this all about dealing with serious and organised crime? I just want to understand the parameters of the powers given under the instrument.

Keith Brown: I will ask officials to come in, but I am not aware of any area of crime that is not covered by the order. You, too, have highlighted

the issue of customer accounts and information—and rightly so—which is obviously to do with the financial aspects of a potential crime. However, that sort of thing will rely on the witnesses' co-operation. As I have said, though, I am not aware that the order precludes any crimes being looked at—and I see that Vivienne McColl has confirmed that.

Pauline McNeill: Theoretically, then, it could cover, say, shoplifting.

Keith Brown: We cannot tell other countries what crimes they might want to come to us about and ask for the help of the Lord Advocate and witnesses on. In that case, the answer is yes—any level of crime is possible.

Jamie Greene (West Scotland) (Con): Good morning, cabinet secretary. I have some questions about sections 47 and 48 of the 2003 act, which I believe the instrument amends or relates to.

The policy note states:

"Scottish Ministers will be able to facilitate the transfer of prisoners to and from these countries for assisting with the investigation of offences."

That seems like quite a benign statement. First, does that agreement already exist and, if so, are you simply adding those countries to it?

Secondly, if such an agreement does not currently exist for those countries but will do after this change, I have some questions about what that will mean. At the moment, we are hosting a large number of Ukrainian refugees who have fled the war in their home country, and there have been media reports of some of them already looking to instigate proceedings with regard to crimes of war, against either Russia as a state or individuals. If any of those complainants were to make a complaint in Scotland, would this provision be required, for example, to move prisoners from Ukraine to Scotland for trial—or, indeed, vice versa, if someone had come here as a refugee but was found to be needed back home for an investigation? Would there be that kind of two-way conversation? Would it also include people held as prisoners of war? As a specific example, I am thinking about a Russian soldier in Ukraine who has been accused of a crime by someone currently in Scotland. Would this provision enable or facilitate their removal to Scotland? How would that happen?

Keith Brown: I will respond first, and then officials will give you the correct answer.

The purpose of the order is to designate the additional countries that I have mentioned. It is possible just now for us to ask each of those countries—or, indeed, any country—for that assistance, or for another country to ask us, without their being designated countries. We can co-operate on that basis already, but the order gives added weight to that, because all the countries that we have mentioned are now part of the rules-based international order. They are now involved in the protocols that we have, and the order gives more force to that.

I have not been involved in such cases—which, obviously, would go to the Lord Advocate—but, in effect, there would have to be quite good reasons for countries not to co-operate. I suppose that, without being added to the list of designated countries with reciprocal arrangements, a country could more easily dismiss such a request and not go along with that co-operation. Therefore, the order gives added weight to the protocols. Moreover, having just told Pauline McNeill that any level of crime might be covered, I should say that I think that there would have to be a different process in relation to international war crimes.

10:00

As for Ukrainian people who live here going back to Ukraine or Ukrainians coming here, we must bear in mind that, under the order, the arrangement between countries must be consensual. I am not aware of whether the domestic law in Ukraine is operating as normal—for obvious reasons—and I think that, in relation to war crimes, there would be a different process, which would be started internationally. That is my understanding, but officials might want to add to that.

Vivienne McColl (Scottish Government): I think that what you are referring to, Mr Greene, is perhaps more to do with extradition. That is separate from mutual legal assistance, which involves looking for evidence, rather than people.

Jamie Greene: The reason that I asked the question is that the policy note states specifically that the provision will

"facilitate the transfer of prisoners"—

not necessarily evidence—

"to and from these countries".

Section 31 of the 2003 act talks about evidence being given digitally or via video or telephone, which might make it easier for someone to participate in legal proceedings in another country—I understand that—but then the policy note goes on to talk about the removal of people.

Vivienne McColl: Just to give evidence. It is a temporary removal.

Jamie Greene: I see.

Keith Brown: And the prisoner would have to consent to it, too.

Jamie Greene: So, it is nothing to do with extradition. That is fine. In that scenario, then, would there be a request by ministers to the Lord Advocate or would it be the other way around?

Vivienne McColl: It is a two-way process.

Jamie Greene: So, who would give the authorisation?

Vivienne McColl: That would be the Crown.

Jamie Greene: It would be the Crown, not ministers. Okay—thank you.

Russell Findlay (West Scotland) (Con): The policy note says that an instrument in similar terms has been made for the rest of the United Kingdom. What are the differences between that instrument and this one? Are there any?

Keith Brown: The list of countries is exactly the same. Russia has been precluded by the UK Government, too. The issue is simply that we have a different jurisdiction. I am aware of no tangible differences between our instrument and the one for the rest of the UK.

Russell Findlay: My next question is simply on something that I am curious about. The policy note says that section 31 of the 2003 act

"will allow persons in the UK to give evidence via telephone to a court in any of these countries."

Would that sort of thing still be done by telephone?

Keith Brown: That is what is specified in the order. Of course, it is quite possible for evidence to be given in other ways—via videoconference and so on—but the order specifies that evidence would be given by telephone, so that is where it will have an effect.

The Convener: As there are no further questions, I invite the cabinet secretary to move motion S6M-07936.

Motion moved,

That the Criminal Justice Committee recommends that the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (Scotland) Order 2023 [draft] be approved.—[*Keith Brown*]

Motion agreed to.

The Convener: I thank the cabinet secretary and his officials for their time this morning. We will have a brief suspension to allow them to leave.

10:03

Meeting suspended.

10:03

On resuming—

Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Amendment Regulations 2023 (SSI 2023/39)

The Convener: Our next item is the consideration of a negative instrument. I refer members to paper 2.

If members have no questions, are we content not to make any recommendations to Parliament on the instrument?

Members *indicated agreement.*

The Convener: We will have a brief suspension to allow the room to be set up for our next agenda item.

10:04

Meeting suspended.

10:06

On resuming—

Domestic Abuse (Scotland) Act 2018: Post-legislative Scrutiny

The Convener: Our next item of business is post-legislative scrutiny of the Domestic Abuse (Scotland) Act 2018. I refer members to papers 3 and 4.

I intend to allow around an hour for each panel. I welcome our first panel of witnesses: Dr Marsha Scott, from Scottish Women's Aid, who is joining us remotely; Dr Claire Houghton, from the University of Edinburgh; Professor Michele Burman, from the University of Glasgow; and Amanda Masson, partner at Harper Macleod. I warmly welcome them all.

We move straight to questions. As usual, I have a general opening question. The Domestic Abuse (Scotland) Act 2018 aims to improve the ability of the criminal justice system to tackle domestic abuse effectively and to increase the capacity of the courts to protect victims. The act created a new offence of domestic abuse against a partner or ex-partner. The aim was to enable effective prosecution of either physical or psychological abuse that took place over a period of time. The Scottish Government's recent report on the act says that 420 people were prosecuted for that new offence in 2021-22, which may reflect what we might call a slow burn.

I would like each witness to give their individual perspective on the first year of the act being in force and to make a broad opening comment about the success or otherwise of the new legislation. I will begin with Dr Houghton and then bring in Michele Burman.

Dr Claire Houghton (University of Edinburgh): Thank you for inviting me to join you.

Having reviewed 22 closed cases with victims and child witnesses, I can say that the definition within the act and the huge shift to recognise psychological abuse and on-going abuse over time certainly reflects their experiences, which was one of the main aims of the act.

However, implementation of that definition still has a long way to go, especially in terms of capturing psychological abuse. Victims felt that that was not represented fully in their case, and that the focus should be on on-going abuse rather than on specific physical incidents. Even in cases under the DASA, it was felt that there was still a focus on two incidents or on a small number of incidents rather than on capturing the whole story.

Lastly, one of the main issues for parents and child witnesses is that we attempt to capture the harm to children through the use of the child aggravator and non-harassment orders covering children. We have a long way to go in relation to that. I could speak more about that later.

The Convener: Thanks very much. I will come to Professor Burman, then I will bring in our other two witnesses.

Professor Michele Burman (University of Glasgow): Thank you for inviting me along this morning. You talked about the slow burn and relatively limited use of the Domestic Abuse (Scotland) Act 2018, convener. Although the use of the 2018 act is increasing slowly year on year, most charges of domestic abuse in Scotland continue to be brought under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. That reflects the complexities of domestic abuse and the challenges that the legislation poses in determining a course of conduct. It requires a quantum leap in thinking and in police investigation—that is, moving from a traditional incident-focused approach to domestic abuse to understanding the course of conduct. That is one of the reasons why there has been a very slow uptake of the new legislation so far: it requires a different way of thinking.

I will draw on some work that my colleagues at the University of Glasgow and I have done on front-line policing of domestic abuse. It was begun at the time that the Domestic Abuse (Scotland) Act 2018 was introduced, when the police were undergoing domestic abuse matters training, and we undertook a second sweep of interviews just over two years later. It is clear from that work that the operation and the effectiveness of the legislation is dependent on police interpretation and implementation. The ability of the police to identify coercive, controlling behaviour and elicit information on a series of abusive behaviours is crucial. On the basis of our research, I would say that we are still some way off getting to the point at which there is recognition of some of the subtle and quite nuanced behaviours that are addressed through the legislation.

The Convener: Thanks very much for that. I will bring in Dr Marsha Scott next, and then Amanda Masson.

Dr Marsha Scott (Scottish Women's Aid): Good morning, everybody. Happy international women's day! I say that especially to the women in the room—

"A gude cause maks a strong arm."

I am possibly a little more blunt than Michele Burman, but I probably agree with everything that she and Claire Houghton have said. This morning, an article was published by Andy Myhill and colleagues from the College of Policing on domestic abuse, stalking and honour-based

violence—DASH—risk assessments, which really supports what Michele Burman was saying. However, I do not think that those behaviours are subtle and nuanced; I think that they are very easy to see when people are properly trained.

I will return to the beginning. We have seen the Crown Office and Procurator Fiscal Service embracing quite enthusiastically and positively the implementation of the Domestic Abuse (Scotland) Act 2018—it has a real commitment to making it work. However, that organisation is just one piece of the puzzle, and we have some really big tasks still to do.

I agree that implementation was always going to be a slow burn. However, it is not a slow burn in the sense that progress is guaranteed. I am sorry, but women and children cannot wait for people to get round to figuring it out. We need to do that much more quickly than we have been. I will make a point that illustrates that. Of all the domestic abuse reports to the Crown Office in 2020-2021 and 2021-2022, only a tiny percentage of them were prosecuted under section 1 of the Domestic Abuse (Scotland) Act 2018. In 2020-2021, it was 4.7 per cent; and, in 2021-2022, it was 5.5 per cent.

10:15

We are absolutely confident that that is quite an underidentification of DASA cases. The Crown Office and the fiscals would say, “We can only prosecute with the evidence that we’ve got.” I am somewhat sympathetic to that view, but the fact is that, if the police are asked for the evidence, they will often get it. Across the whole piece, there is work to do on implementation, but—and I agree with Michele Burman on this—the most critical issue is evidence gathering and front-line policing.

The thematic inspection of the police really confirmed our concerns with regard to their understanding of gender and controlling behaviours. Some of the police are really excellent—I want to underscore that—but the inspection, along with Andy Myhill’s research and everything that survivors have been telling us, shows that it is a postcode lottery as to whether the police officer to whom a woman and/or a child talks understands coercive and controlling behaviours. That is really important, because such behaviours are one of the single biggest indicators of lethality in domestic abuse cases. This is not about saying, “Oh, this is a lower threshold of risk”; it is about making it clear that it is the highest threshold.

I have lots to say about other things such as the response under Covid, but I should probably draw a line there, convener, as I suspect you would like me to do.

The Convener: Thank you very much for what, as always, was a comprehensive response. I will bring in Amanda Masson and then open it up to questions from other members.

Amanda Masson (Harper Macleod LLP): Good morning, everyone, and thank you for inviting me to participate.

I endorse what my colleagues have said so far this morning, but perhaps I can offer a solicitor’s perspective. My sense is that, although there is certainly much greater understanding of what is meant by coercive control, there is still a reluctance on the part of clients who might consult me in a family law capacity to accept that that is something that is happening to them. They might well be reluctant to accept that behaviour does not necessarily have to be violent to be coercive, controlling or abusive, and I suspect that there is also a perception that domestic abuse does not affect certain socioeconomic groups.

From my perspective, there is also a lack of understanding of how these behaviours can affect children; certainly in my child welfare report practice for the court, very little is said about the effect on children of witnessing such behaviours. Moreover, my sense is that, when it comes to the multi-agency risk assessment conferences, very little is being said about coercive control. The focus is still very much on the more—for want of a better word—conventional assessments involving physical violence.

From my perspective, it is the public perception that needs to change, and that will involve raising awareness of what coercive control means.

The Convener: Thank you very much for making a number of really interesting and relevant points. I note the comments that have been made about the policing response, and I should say that we will be hearing from Police Scotland as part of the next panel of witnesses.

A few members want to ask questions. I will begin with Pauline McNeill, to be followed by Collette Stevenson.

Pauline McNeill: I want to start by wishing everyone a happy international women’s day.

I was not involved in it at the time, but I am fully aware of the significance of the legislation that Scotland passed. Indeed, it was identified as world leading, and we are proud of that aspect of it.

That said, I am not really familiar with the detail. What I want to get into is how we can fix the situation, which Amanda Masson finished off with, where clients are reluctant even to raise the question. Moreover, how can we do better at creating the understanding that is needed and proving these cases in court?

I guess that, when we as legislators pass legislation, we think about what we would like and then the agencies have to work out the practicalities on the ground. I am sympathetic to Police Scotland in that regard. I do not know what guidance it was given or what the act says about what it should be looking for when it sees something that might be regarded as coercive behaviour or psychological damage to a woman or, indeed, a man.

What should the police look for? Is the act clear about what needs to be shown before they hand the case over to the Crown Office to make the final decision on it? I would welcome anything that the witnesses could tell me. Is the act clear enough? If it is not, what do we need to do around providing the relevant evidence or creating understanding of those provisions?

Dr Houghton: You reminded me of one of the victims whom we interviewed and an example of really good practice. That woman said:

"I was really just saying how frightened I was because of the baby and his behaviour, and confused. So I did go right back with them"—

first of all her health worker and then the police—

"to the very beginning and a lot of pieces of the jigsaws have come together".

On the relevant effects in relation to fear, alarm and distress, the act talks about monitoring, controlling, surveillance and being in fear, as well as adverse effects on children, to which we will come back later. There is a lot of detail, but it is quite tricky to say what can evidence those things.

There is not necessarily a reluctance on victims' and survivors' part but, sometimes, they need support to identify that it is a criminal course of behaviour. Some victims felt not only that they did not know the details of the act but that some professionals—unlike the police officer and health worker in the case that I cited—did not know it and, therefore, could not apply it to their case and would instead look more at physical abuse and physical harm, which Amanda Masson described as the more conventional evidence.

Other victims and survivors were clear that they were being psychologically harmed—they were being surveilled and tracked to work, for example—and said that they had lots of evidence, such as print-outs of emails, texts or lots of online abuse. However, they felt that that was not taken fully on board and that only a small piece of their jigsaw was revealed in court. When they tried to build their own case, although they wanted to collaborate more with the police and the procurator fiscal, they still felt that the psychological abuse—the non-physical harm, which was the groundbreaking part of the act—was hard to speak about, because it is really difficult to talk about, and to evidence, manipulation.

The details are there up to a point, but the question is how we evidence that and how the police officers support a victim to speak about abuse that has happened over years, which takes quite a skilled approach.

Professor Burman: I absolutely agree with what Claire Houghton said. There is clarity in the legislation about what is sought, but the issue is the implementation and application of the legislation.

Evidencing things such as emotional or psychological abuse can be very difficult. It comes back to the interaction between the police and the survivor to determine the wider context—how the different incidents and the history might be linked. It relies on the development of a different sort of relationship between the police and the survivor to elicit that information and support the survivor and gain her trust so that she—it is usually she—feels able to talk about it.

For me, it comes back to the implementation of the legislation and the degree to which the police are equipped to interpret and implement it at the point of discussion.

Let me say one thing. In Scotland, it is usually tier 1 response officers who are called out. We have three tiers of response in relation to domestic abuse, and it is usually the tier 1 officers who go out to the scene. They are not specialist officers, as tier 2 and 3 police officers are. As part of our research, officers told us that tier 1 response officers are slaves to the radio, which means that they might have umpteen different calls in the course of one shift. Domestic abuse cases can be complex and require more time; the investigation can be quite protracted and lengthy, because of the detail and nuance that need to be determined. Often, that presents a challenge to tier 1 response officers, who have other calls coming in that they need to respond to, in a resource-constrained environment where there is a lot of paperwork to do.

There is an issue about reliance on tier 1 front-line response officers at that point. That is where there is room for more trauma-informed practice training and more specialised training on the legislation, given that the first and most important interaction is often with those officers.

The Convener: Both the witnesses who are online want to come in. I ask for fairly succinct answers, so that everyone can get the opportunity to ask questions.

Dr Scott: You know that that is not my thing. However I will be succinct here. I think that the law is fine, in part because survivors contributed so

much of the language, especially in the guidance, around freedom, autonomy, fear and distress. The language around what coercive control looks and feels like is fine. I agree with what was said, so I will not repeat it.

An area on which the law needs work is children. I think that Claire Houghton will back me up on that. We failed to get the bill to designate children as co-victims when a parent—usually the father—is convicted. We are really concerned that, even if the aggravator were applied in all the cases in which it could be used—and we cannot get data on that because the Crown Office does not collect data in that way—it would not do the trick. It is clear to us, from multiple sources of evidence, that civil cases that follow criminal cases of domestic abuse are not reflecting the much broader understanding that we now have of the impact, harm and trauma that domestic abuse visits on children.

We were unhappy about that issue when the bill was passed, and I think that it is really critical that it is taken up, possibly through an amendment process.

Amanda Masson: I think that the law is absolutely fine—I really do. From a practitioner's perspective, it is well drafted and clear. It could not be clearer. Clients certainly understand what it means, which is the important thing. I agree with other witnesses that the issues are implementation and evidence gathering.

Pauline McNeill: Thank you. You all think that the law is clear.

Michele Burman made an important point about who goes out to visit when a crime is reported. Amanda Masson, at what stage in the process would you start to gather the relevant information to show that there was coercive behaviour? Is it maybe more practical that the initial report is done by the police, with someone then needing to look at it? I imagine that you need to gather evidence or you will fail in court. At the end of the day, the accused will not be convicted unless the crime can be proved, which requires substantial evidence. Where in the process does it make sense to gather the relevant evidence on, for example, the victim feeling fear and alarm over a long time and not being free to make decisions in the relationship? I presume that that is what you are looking for. All those things need to be proved.

Where in the process would it make sense for someone to gather that information for the court?

10:30

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

Amanda Masson: I can think of three private cases that I have had in the past year where it has been clear to me that there is an issue of coercive control, and the evidence has come from friends and family. I am not sure how practical this suggestion is, but when the police, who would ideally be specialist responders, are first faced with reports, they could say to survivors, "Give us the name of your sister, friend or colleague who you have talked to about this." That could help to create the body of evidence that is needed.

In the three cases that I can think of, the survivors have simply said, "I want out of this relationship. Help me get divorced." For them, that is the way to get out of it. Often, reports have been made to the police, but there has been a lack of corroboration. The time to gather the evidence is shortly after the first approach is made to Police Scotland.

Collette Stevenson (East Kilbride) (SNP): Good morning, and happy international women's day, everyone.

What impact has the act had on the consideration of victim safety when an offender receives a sentence or a non-harassment order? From the wealth of evidence that has been taken, it appears that where NHOs are used, they are not extended to a victim's children. What impact has that had on coercive control?

Dr Scott: The issue around NHOs covering children goes back to what I said earlier about courts not really understanding the impact of domestic abuse on children and thinking that there is some threshold of harm that they can identify. We are improving the front end of the system: the policing is a problem that everyone has identified. The DASH risk assessment research that I referred to in answer to the previous question should be done in every front-line, tier 1 police visit in a domestic abuse case—it pretty much is—but the research tells us that the way that officers use those assessments is often to characterise an incident as unfortunate, minimise it and discount evidence around coercive control. That is a separate issue.

We hear so many stories from women about court and sentencing where there is a conviction. The vast majority of sentences in such cases are community disposals. There is no evidence in Scotland that that has a protective effect for women and children—and forget about the supposed rehabilitation aspects. No one wants to open that difficult box. I hope that someone, somewhere has the appetite to ask where the evidence is to show that community disposals encourage convicted offenders to desist from offending, and whether women and children feel safer. There are a whole lot of problems there.

Thank goodness for the NHO element in the new act. If it were used more consistently it would provide more protection. We hear pretty consistently from women and children that the NHO is the element that provides them with some breathing space and makes them feel safe. Not all perpetrators pay attention to NHOs, but the majority do, and when they do, there is a demonstrable improvement in how people feel about the application of the law.

There have been a lot of issues with breaches of conditions that have not been responded to appropriately; Covid exacerbated that situation terribly. In the grand scheme of things, however, sentencing is the elephant in the room as far as we are concerned.

Amanda Masson: I agree with everything that Marsha Scott said. Children are missing in the process, and I think that that is partly because we worry about children giving evidence. It is almost instinctive—we do not want to interview or talk to children and place them under the pressure of perhaps perceiving that they are talking against a parent.

When I talk to children in the slightly different context of separation, they often have a lot to say, and they say it clearly and well. More can be done. Children 1st is currently doing really good work in relation to safe places for children to give evidence. It might be useful for that work to be linked in with what the committee is looking at. For me, the key to involving children in giving evidence is making it safer for them to do so and changing the perception of their role. Of course we want to protect them, but they might well be key to providing the evidence that we need in such cases, as long as that evidence can be taken in a way that is safe and comfortable for them.

Professor Burman: First, it is erroneous to think that abuse will stop once the perpetrator has left the family home. The physical abuse may stop, but there are other forms of abuse, in particular emotional, psychological and financial abuse, and often child contact or child custody becomes an arena in which that abuse can continue.

It is important that a proper adequate risk assessment is done to ensure that there is sufficient safety planning around the non-abusive parent and the child. We have yet to see that robust safety planning in Scotland—it is not as developed or as much in the foreground as it is in other jurisdictions.

On the question of non-harassment orders, signposting to the civil justice process for NHOs is not an effective means of identifying risk, especially given the impacts of the legal aid crisis. That needs to be determined at the criminal court.

Finally, where there is a civil case that takes place subsequent to a criminal justice case involving domestic abuse, there is no mechanism for information about domestic abuse to feed into the process. It is entirely up to the parties to inform the lawyers that there is a background of domestic abuse. The way in which that information is fed from one system through to another is purely serendipitous, which is problematic.

Dr Houghton: I agree with what has been said, so I will take a slightly different tack in answering the question. I have done research with children on domestic abuse for 30 years, and I know that they want to be heard and to have a say. Some want to be witnesses, but I agree with Amanda Masson that evidence must be taken quickly and in a safe place, hence the move to pre-recorded evidence and the barnahus approach.

We need to think about taking that approach—with pre-recorded safe and quick giving of evidence—with both adult and child victims, so that we do not have the delays that we are currently experiencing. I know that those delays were exacerbated by Covid, but they were there already.

Both adult and child victims are experiencing trauma as a result of lengthy delays and adjournments, and situations in which they come to give evidence and there is a late plea of guilty. For example, a child may be outside in a car with a support worker, and they may already be crying and nervous about giving evidence, and then there is a guilty plea. We hear about that again and again.

There were 10 child witnesses cited in the cases that we talked about, but only one child aggravator case and only three NHOs involved children, so it is clear that we still have an issue even when we are trying to hear children. All the victims and witnesses talked about the sentence not capturing in any way the full story of their abuse, its severity or the course of behaviour.

You asked about NHOs. Because our remit was to look only at closed cases, some of the victims were coming to the end of one or two-year NHOs. The length of NHOs is a real issue. We kept being asked how those could be lengthened without recourse to civil law, but that does not seem to be easy. The victims were in fear and had not received the mental health and trauma support that they needed during those two years.

Collette Stevenson: Can I come back in on what you said? You took evidence about impact. Have you seen dramatic effects caused by the lifting of NHOs?

Dr Houghton: Because there were so few closed cases, the NHOs were at the point of being lifted. Some of the victims felt utter fear and were

already seeking their own redress by talking to the Scottish Women's Rights Centre. One was talking to a civil lawyer like Amanda Masson. People were trying to find different ways to protect themselves and several of them—at least five—were talking about moving house. That was after the NHO, not after the court case or immediately after the abuse but because the NHO was about to expire. People were talking about moving country or moving hundreds of miles to try to feel safe. One victim talked about not being able to go out without having her adult son there to protect her.

There were real issues with on-going NHOs. I know that some NHOs have been passed for longer periods, which offers more protection. Several of the victims were already involved in cases about breaches of NHOs. Because those cases were not closed, we could not speak to those victims about that, but they were very sceptical about whether they would be taken seriously. That is one facet of the new act.

Rona Mackay (Strathkelvin and Bearsden) (SNP): My first question is for Michele Burman. I was interested in what you said about abuse not ending when NHOs were issued. You will be aware that, during the previous session of Parliament, we passed legislation on domestic abuse protection notices. Those are not yet in use, and I would be interested in asking the police about that. Do you think that that is good legislation?

That links to a member's bill that I am proposing but which has been put on ice. The bill would create stalking protection orders that would allow the police to go directly to court to ask for a protection order for the complainer.

I would like your opinion on the relevance of the legislation that we passed, which would remove an alleged perpetrator from the house.

Professor Burman: That is a welcome development, which I think will make a difference in some cases. However, perpetrators can be very inventive and are increasingly using digital means to continue or restart abuse. Even when they are some distance away or when the family has moved away to flee, there are still ways in which perpetrators can continue or restart abuse. The notices are a positive step, but we must be realistic about the inventiveness of perpetrators.

Rona Mackay: I was interested in what you said about tier 1 responders and about how they are so caught up with calls that they probably do not have time to spend with victims. Do you think that there is an argument for having specialist domestic abuse police officers?

Professor Burman: I do. There probably should be enhanced specialist training for all police officers, given the volume of domestic abuse and the likelihood that they will be called out to deal with that.

We already have specialist officers at tiers 2 and 3, at divisional level, and, with the task force, at national level. Our research suggested that the issue with tier 1 police officers is the time that they have available to spend when they are, as I said, slaves to the radio and are being called away during a shift to deal with other things. We need to look at that in the context of constraints on resources in criminal justice generally and in policing within that.

I therefore think that there needs to be more time for more enhanced specialist training; indeed, trauma-informed training will be very important. Training on domestic abuse matters has been rolled out to many thousands of police officers. That was a wonderful feat, but it needs to be continued and reviewed, because one-off training is not as effective as having something that happens at regular intervals.

10:45

Rona Mackay: My next question, which is for Amanda Masson, is, I guess, about victim awareness, which we have talked about—

The Convener: Perhaps I should come in here, Rona, and say that Marsha Scott wanted to respond to the previous question.

Dr Scott: On the Domestic Abuse (Protection) (Scotland) Act 2021, I will not be on the next panel, but I know that Sam Faulds will be, and I just wanted to highlight another aspect on which I have really big concerns about the implementation of the law. We have been involved in multiple meetings and conversations about the problems of implementation, and what I would like to say relates, I think, to the discussion with the next panel. We are very happy to talk about solutions, but the reality is that we cannot just pause and somehow think that there are no problems and that harm is not happening as we speak.

We have a commitment under the Istanbul convention, which has now been ratified by the UK Government, to put emergency barring orders in place. Scotland does not have—and has never had—any such orders that would comply with the convention. In that regard, we are unlike many European countries. That cannot be an unsolvable problem—indeed, other people are doing that and have been doing so for decades—so can we stop pointing fingers and saying how much it is all going to cost and start figuring out how we will implement those orders?

There needs to be protection the whole way through the system, right from the first time that a woman discloses—which, I should add, is unlikely

to be to the police; we all know the figures. Is that because the woman has not identified that she does not like what is going on or that she is unafraid? No, it is because experience tells her that what she has experienced will be minimised, that her harm will be downgraded and that, if there has been no physical assault, it will be a lottery as to whether someone will take her seriously.

I do not think that we need specialist police officers on the front line, although I would love to have them. The fact is that, because 25 per cent of police business is domestic abuse, every officer needs to be a specialist. Research from the College of Policing shows that things can be done much better. We just need to invest in appropriate training and follow up the implementation infrastructure. It is absolutely right that one-off training does not work—indeed, we said so at the time.

This is not rocket science, and it is not some big terrible thing that we cannot figure out. We just need to do it right.

Rona Mackay: I note that Marsha Scott mentioned the Istanbul convention. I just wanted to ask about there being no recourse to public funds, which is an issue that I know Women's Aid has been doing a lot of work on. The fact is that asylum seekers or immigrant women who come to live in Scotland and are fleeing domestic abuse have no recourse to benefits. I appreciate that that matter is reserved to Westminster, but is there more that we could be doing about that in Scotland?

Dr Scott: As a matter of fact, there is. The Covid emergency led us to think in a wider way about the tools that might be available in a public health emergency, which I think domestic abuse is. For example, we were allowed to house women and children instead of making them destitute. The Istanbul convention is really clear that your access to support and safety should not be mediated by your immigration status. To be fair to Scottish Government officials, I think that it is clear that they would like to be able to provide more support than they feel that they can under the Scotland Act 1998.

There is room to explore those issues. After all, there is cross-party consensus—or, at least, consensus across most parties—on that in Scotland.

The Scottish Government is committed to coming up with human rights-based housing pathways for women and children who are experiencing domestic abuse, because domestic abuse is the single-biggest driver of their homelessness. There are lots of good intentions, but there has not been much of a practical response.

The other thing that I really want to say, which is really mundane, is: data, data, data. There is such a failure of our system to understand that it needs competently collected intersectional data. Right now, it is difficult for us to even identify the number of women with no recourse to public funds in Scotland and to model what supporting them would cost.

I will stop now—I promise—but before doing so I will mention that the Domestic Abuse Commissioner for England and Wales has just published a report on a cost benefit analysis of extending the domestic abuse exception, which would go a long way to helping women and children in Scotland.

Rona Mackay: Amanda Masson, I want to ask you about victim impact statements. I understand that domestic abuse is not on the list of crimes that are eligible for victims to give statements about before sentencing in a court. Claire Houghton might want to come in, too. That is a huge omission, and I would like your views on that.

Amanda Masson: I agree. Victim impact statements go a long way to helping survivors to feel heard. It would help to raise public awareness of the issues and of how being on the receiving end of certain courses of conduct can make people feel. The statements would have those two benefits, as well as having the conventional benefit of, we hope, helping during the sentencing process.

For me, the huge positive of that would be people having an opportunity to say how they felt and for them to be heard. In turn, I expect that that would help to raise public awareness of what constitutes a course of conduct. People might hear such statements reported by the media and think, "I get it now. That is something that I have experienced and it's not okay."

While I was listening to Marsha Scott, I was thinking about an email that I received from a client yesterday. Obviously, I cannot say too much, but she was saying to me, "I told my husband I was frightened. I told him that's why I had to leave the house. He thinks I'm having an affair. What can I do?" She is coming to a family lawyer—she is thinking about divorce—before she goes to the police.

During the dialogue about what she intended to do, whether she had someone to talk to and whether she had support, her response was, "The police won't take this seriously." There is still an issue about what the police think constitutes abusive behaviour and how seriously the police would take it. It might be an issue of public awareness. I remember that, when the legislation came in, there was a really good public awareness media campaign, then things seemed to go quiet

for a while. It might be that we just need to keep it in the public arena.

Rona Mackay: I completely agree. I do not know how many people have watched the excellent BBC series "The Women Who Changed Modern Scotland". I think that it was in the 1990s when Zero Tolerance did a fantastic awareness campaign. I had forgotten about that, but I now remember it being everywhere at the time. We talk about the onus that is put on women to come up with the evidence. An awareness campaign could tell people to keep a record of everything, so that they are not caught thinking, "I don't know how to explain this." Public and victim awareness is an absolutely huge issue.

Claire Houghton, do you want to come in on victim impact statements?

Dr Houghton: Yes. Before doing so, I will mention that that was one of the recommendations from adults and children about public messaging and clear messages from here—from the Parliament and the minister. I would also say that public messaging around the Domestic Abuse (Protection) (Scotland) Act 2021 was not sustained for long enough. There was also a promise that there would be public messaging directed at children and that did not happen. We need to think about that really carefully.

To go back to your point on victim impact statements, at the moment, we are hearing that we are not finding the means for victims and children to tell their whole story in the investigation and in the case that is led at court. Victims feel that those things and the sentencing do not reflect their whole experience. We need to consider victim impact statements as one route among others and ensure that when we talk about victim impact we are also talking about children.

The Convener: Thank you.

We have about 15 minutes or so left and there are still some members who want to ask questions. I ask members to target their questions at specific witnesses and I will bring in others if they have something further to add. As ever, please keep questions and answers as succinct as possible.

Russell Findlay: My first question is for Dr Houghton. I was struck by the research that you, Dr Morrison and Dr Warrington did, which was published in January. You spoke to 22 victims of domestic crimes and there were 10 key findings. One in particular is worth repeating in full because it encapsulates so much of what is wrong, including the police, prosecution and sentencing elements. It is:

"Participants had significant concerns that the investigation, prosecution and sentencing for domestic abuse offences did not adequately reflect the sustained level, severity or impact of abuse experienced."

That sums it up.

Were you surprised by what you and your team found when speaking to the women? Given that the Government commissioned the work, have you had any feedback from officials or ministers? There seems to be a consensus that there is not a legislative need to change anything, so how do we fix those embedded cultural problems in the system?

Dr Houghton: Was I surprised? No. That was partly because previous research, such as the everyday heroes project on children's priorities for justice and other research on gender-based violence, such as the work by Michele Burman and Oona Brooks-Hay on justice journeys for rape and sexual assault victims, reflected the findings of our research. We also checked our findings on the 22 victim witnesses with court advocacy and support workers from Women's Aid, who told us that that is reflective of the experience of women and children. However, I still found it to be unremittingly grim.

The advisory group, which is full of allies such as Police Scotland, the Crown Office and our lead non-governmental organisations, is determined not just to get feedback but to work with the Government to improve the response. We now need to look at how we do that. Have we got an implementation group? How are we monitoring the situation, and how are we getting the data that is missing, for example on the children associated with such cases? We also need to examine whether there is a legislative need in relation to children. We must take a much closer look at the use of the child aggravator, as well as any associated children who have been harmed and impacted by domestic abuse.

It was a very difficult research project to be part of, but it was also an immense privilege that the women and children spoke at length about their experience. They did so partly because they felt that they had not had that opportunity in court.

Russell Findlay: For what it is worth, I note that I was in contact with one of the participants who mentioned that she is very grateful not just for the opportunity to take part but for the subsequent support that she has received from you and your team.

Dr Houghton: That is great. Thank you.

Russell Findlay: I have one more question, which is for Professor Burman. In the written evidence, you talk about civil and criminal cases sometimes running in tandem, albeit they are completely disconnected. I am familiar with cases in which an abuser has used the criminal courts as

a means to extend and prolong abuse, or they have used the civil court to delay or derail the criminal prosecution. Has any research been done into that specific problem? Has anyone given any consideration to a fairly radical fix of combining criminal and civil matters relating to the same parties, or is that getting a bit ahead of the game?

11:00

Professor Burman: In relation to your first question, no research in Scotland has looked at how a perpetrator might manipulate criminal and civil justice proceedings. Research has been undertaken in England and Wales by Maddy Coy and her colleagues that is focused on the perspective of the non-abusive parent, if you like, but we have not had any research like that in Scotland.

Our recent research—it was published last December—on child contact in the context of domestic abuse cases found that that manipulation was happening. However, the research focused on the perspective of family lawyers rather than on the perpetrators or the non-abusive parents. There is some evidence of such manipulation, but we have not had a clear and focused piece of research in Scotland on that as yet.

I do not know how feasible combining criminal and civil matters would be—I am looking at Amanda Masson here. We need better mechanisms for communication and information sharing between the criminal and civil justice systems. As I said, it is a matter of chance or luck that the civil courts hear about the background of domestic abuse. We need better communication mechanisms whereby relevant professionals in those systems are tasked with providing that information, because it is important that civil justice knows what has happened in the criminal proceedings and that there has been a case in the criminal courts in relation to domestic abuse. However, we do not have that at the moment at all.

Russell Findlay: I am dealing with a case in which a woman's partner is seeking legal aid for civil action that she believes has the ultimate goal of removing their child from the UK, and there are parallel criminal proceedings. I have made representation to the Scottish Legal Aid Board to try and point out the background to that. She feels totally isolated, and that the system is against her and is facilitating what is going on. I suppose that that speaks to your point.

Professor Burman: Such cases of legal system abuse, you might call it, are prevalent. We have heard lots of stories of that in our research in the area.

The Convener: Before we move on, Amanda Masson and Dr Scott want to come in. I bring in Amanda first. Please be as brief as you can.

Amanda Masson: I agree that the mechanisms for information sharing are poor. I do not think that it is too big an ask to try to amalgamate the civil and the criminal. I am afraid that I feel obliged to say that the legal aid crisis is having a terrible impact. In my 20 years of practice, I have never known a letter of objection to the legal aid board to result in the outcome that I think your constituent hopes for. I could speculate about the reasons for that, but the way to fix it is to have a better overview, to have more communication between different agencies and to be aware of what has just been described as "legal system abuse". Solicitors represent their clients—that is our professional duty—but we also have a duty to recognise where information sharing might have a wider interest, particularly in relation to the interests of the children, and we have duties to the court.

My practice is increasingly around children who are becoming victims of coercive control via contact actions. That is a bold statement to make, and I am very sad to have to say it, but I am seeing that happen more often. It is very easy to secure legal aid for child contact disputes, but those disputes are not always necessarily processed quickly enough to take into account the risk of abuse.

Dr Scott: I will respond to Russell Findlay's question about what non-legislative measures should be taken. We suggest that a Domestic Abuse (Protection) (Scotland) Act 2021 implementation group be reinitiated. We were not invited to sit on the group the first time round—only statutory partners took part in that—but we think that we could have improved it. We would like the group to be re-established, so that we can look at the landscape and make a plan.

On the question about information being passed on from criminal to civil cases, at the time of the crafting of the domestic abuse legislation, we brought evidence from a judge in the New York Supreme Court who had done a lot of work on the issue. She has suggested a one judge—or, in Scotland's case, one sheriff—one case model. That would ensure that the information travelled automatically, in the brain of the sheriff, from the criminal case to the civil case. I checked with a number of sheriffs and judges in Scotland, and they thought that there was much to recommend that model, but there does not seem to have been any appetite on the part of leaders to take that up. Frankly, I do not think that it is too much to ask.

Jamie Greene: Good morning. I will start with a question for Dr Scott. By asking it, I risk opening up a Pandora's box, but I will ask it anyway.

Earlier, you made a slightly off-the-cuff comment about sentencing being the elephant in the room. I would like you to elaborate on that, because I think that it is very relevant to the conversation. Will you briefly share your thoughts on the subject of sentencing as a deterrent?

Dr Scott: I will. We have long said that we do not think that community payback orders or community sanctions are effective. We are not suggesting that everybody should get thrown in jail and left there for ever; we are suggesting that more effective sanctioning should be considered. That would probably require a significant expansion of the use of electronic monitoring and other kinds of mechanisms, and perhaps the use of more custodial sentences. Because we do not want to throw more people in jail—which I totally support in other cases—and because it is the women and children who experience domestic abuse who are carrying the risk, we need to be willing to talk about alternative sanctions.

Jamie Greene: You will be aware of the committee's report on the Bail and Release from Custody (Scotland) Bill, which was published this week. Earlier, you mentioned the volume of offenders who breach their bail conditions and the effect that that has on their victims. Have you had a chance to do an initial review of our in-depth report and our recommendations? Is there anything that you want to say about that, as it relates to domestic abuse?

Dr Scott: We submitted a significant consultation response on the Bail and Release from Custody (Scotland) Bill, but we were not invited to provide evidence, which I would have been happy to do.

I have not yet had a chance to read the committee's report, but I would be happy to come back to you on it.

Jamie Greene: We look forward to that.

We have covered a lot of ground, but I want to pick up some issues that have not been touched on, one of which is the regional disparity that exists in the prevalence of domestic abuse in Scotland. According to our papers, areas such as Dundee, West Dunbartonshire and Glasgow city have a much higher rate per 10,000 of the population than other parts of the country. What more could be done from the point of view of education or policing, for example? Where do the problems lie? That might be a question for our academic friends in the room. I am slightly concerned that the west of Scotland, which I represent, is disproportionately affected. Why is there such regional disparity in the prevalence of domestic abuse cases?

Marsha, as you are online, I will come to you first, if that is all right.

Dr Scott: I also have to go soon. I apologise for that. Edinburgh Women's Aid is celebrating international women's day and its 50th birthday, and I promised that I would speak.

It is really important not to take the prevalence data too seriously, as it is dodgy. It represents mostly police calls, and we know that most women do not call the police, so I would raise questions about it. We know, however, that there is more police activity in those communities. My analysis of that is that poorer women, who have a variety of reasons for why they do not have the resources to get themselves and their children safe, are more likely to be involved in the system and to call the police. If you were to look at the poverty rates in those areas and the rates of reporting domestic abuse to the police, I suspect that you would see an interesting correlation.

Jamie Greene: Thank you, Dr Scott. I add my congratulations on your organisation's birthday, and as one of the token men on the committee, I say happy international women's day to you. Fist bumps all the way.

You have raised a few interesting points that I will not labour with the panel, because we do not have time.

The last point that I do want to discuss, although it is probably bad timing because it is international women's day, is that domestic abuse is also suffered by men. There are male victims of domestic abuse, and they can suffer at the hands of either female or male abusers. I find it very hard to get statistical data on that, although I know that a witness from His Majesty's Inspectorate of Constabulary in Scotland who will be in the next panel has some.

A couple of years ago, there was a concerted campaign by charities, the Scottish Government and some organisations in London to offer more support to deal with the stigma around male domestic abuse. You are nodding your head, Claire Houghton; do you want to come in on that?

Dr Houghton: Yes. We interviewed just two male victims in our research, and obviously I cannot generalise from that. However, one male victim in particular felt that his gender impacted on the response from services and the police, particularly because it was on-going psychological abuse. He felt that people thought that he should "man up"—that was the response of his friends and family, but also the police—and he felt that it was not taken seriously even though there was a considerable amount of abuse over a long period of time. It was mainly online, which, as we have discussed, is really tricky in terms of evidence. When he asked when on-going psychological abuse becomes a crime, he was told that it was not a crime. It really was a difficult case. I think

that you need to look at that kind of abuse. He was a very educated man and was very aware that the majority of victims are female, but he felt that gender impacted on the response that he got.

The other male victim's situation was quite different; he was abused by a female partner. Again, we cannot generalise from that, but it struck me that, despite there being two occasions of abuse under the legislation that was used in his case, one was dropped, so he was not seen as being in on-going "fear, alarm and distress", as all the others, including the other male victim, were.

We have wider research on and support services for male victims, but I think that we also need to think about our messaging—I agree with you on that, Mr Greene. I have had boys in the everyday heroes project say that they were not believed when they talked about their rape or domestic abuse because it was thought that those things did not apply to them. I think that the area is worthy of consideration, alongside the disparities across the country in terms of services for everybody, particularly women and children. In the study, court advocacy support came out as the most important service for everybody, including men, yet there are geographical disparities and we are looking at standardisation only for adults and not for children. Thank you for raising that issue.

The Convener: Dr Scott, I know that you might have to leave us, so feel free to just log off when you need to.

I now bring in Fulton MacGregor.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning to the panel. It has been quite an interesting discussion. I was a member of the committee that considered the legislation in the previous parliamentary session, along with Rona Mackay. It is fair to say that one of the highlights of the session was when it was passed in the chamber. It is good now to do the post-legislative scrutiny of it.

My questions are on an area that has had a wee bit of coverage—Amanda Masson raised it first—which is information on the legislation for victims and the wider public.

When we take bills through the Parliament, we sometimes concentrate on how the police will implement the provisions and how social work services, the third sector and the courts will react, but we sometimes forget to ask what the public's perception is.

11:15

Amanda, you put it really well when you described how people would come to you not thinking that an offence had been committed because they had not been physically hit or assaulted. They might say, "This is just the way he has always treated me," for instance.

How can we make it clearer to the public that coercive control is an offence? How do we make what it is clear and change the culture around it? I am not expecting that to happen overnight, and it has clearly not happened over the four years since the act has been in place—although that is not that long a period of time. Is there more that we can do to speed up the process, however?

Since I have mentioned you Amanda, you can perhaps respond first, followed by the other panellists.

Amanda Masson: You raise a really difficult point. I am a family lawyer, and most of the people who talk to me about such behaviour have been in fairly long relationships. They might say, "This is just the norm. This is just how they have always been." If we can continue the dialogue—[*Inaudible*.]—this behaviour does constitute a criminal—[*Inaudible*.] I think that public awareness—[*Inaudible*.]—are key. I remember well and clearly that the last public awareness media campaign really started some conversations—[*Inaudible*.]

The Convener: Amanda, we are having a slight problem with your sound coming and going. I suggest that we bring in a witness who is in the room. We can try and sort things out and come back to you.

Dr Houghton: I was involved in a public awareness campaign on domestic abuse involving children along with Voice Against Violence. It was a joint campaign with the Government, and I felt that it was really effective. It was not to do with the 2018 act; since the act came into place, we have not had a campaign relating to children. However, there was a 200 per cent increase in traffic to Childline while the campaign was on. Childline was part of the media team, along with the Government, media people, young survivors and young experts. I would recommend taking such an approach.

There needs to be more than advertising; we need to consider education and schools. Even the victims and witnesses who had DASA cases did not fully understand the act. Pauline McNeill made a point about whether people know the detail, and victims and witnesses did not. When those who were subjected to domestic abuse-aggravated crimes heard the detail of the act, they felt affronted that it was not applied in their case, and they could not understand why.

I would support wider public messaging, which is a key recommendation from victims/survivors, but with a more robust response.

Fulton MacGregor: Given the previous two answers, before I bring you in, Michele, let me save some time by suggesting that, when you respond, you might reflect on one thing that the committee could take away from today's evidence session when we go back to the Government. Might that be public awareness?

Professor Burman: Yes. I absolutely agree with what Amanda Masson and Claire Houghton have said: public awareness and messaging are very important. However, one has to be careful with the nature of the messaging, because it can have a triggering effect for survivors. We found that in the research that we did during Covid. There was a lot of messaging around domestic abuse and coercive control, and the women we spoke with as part of our research found that to be very difficult and triggering. We have to be careful about that.

We need more radical reform. We cannot simply rely on the criminal justice system to sort things out. We are facing a deeply entrenched problem, and we need more ambitious shifts across all our public bodies. We need a co-ordinated, bespoke, multi-agency response involving the police, health, education and social services to develop an early-intervention, public health-focused approach to domestic abuse. That would be my main message.

The Convener: Thank you very much.

I do not think that Amanda wanted to add anything more to her previous response. On that note, I will hand over to Katy Clark.

Katy Clark (West Scotland) (Lab): The next panel might be better placed to answer this question. I have been looking through the papers to see whether I can get the information that I am looking for. I am interested in the extent to which you have been able to get information on conviction rates in relation to coercive control, and on the difficulty in securing convictions. At the beginning of the evidence session, there was a lot of discussion about police interpretation and guidelines, and whether we have case law to evaluate how well the courts can decide such cases.

Maybe Claire Houghton is best placed to answer that. I know that you have done some research, Claire, but I do not know to what extent you looked at that and how many cases you had to consider.

Dr Houghton: I think that the next panel will be better placed to answer, because I could not work out from the statistics where cases involved non-physical abuse only. Certainly, the victims/survivors felt that, where the abuse was mainly psychological, and with some of the cases of stalking and non-physical abuse only, a conviction was even more difficult. In their view, it was more likely to lead to either a very minor sentence or a not guilty verdict, as happened in three of the cases. From their perspective, it was a lot more difficult.

The term "coercive control" was not in their parlance. I know that the term is not used explicitly in our act, for many reasons. That is fine, but it means that it is not part of how people speak. There was some mention of control, but the terms "psychological abuse" and "fear, alarm and distress" certainly resonated. It is an interesting point, as laws in other countries refer only to coercive control, and I think that they are limited compared to ours.

Katy Clark: Unless any of the other panel members wants to add anything, I am happy to leave it there, and to pick it up with the next panel. I do not think that we have the data.

The Convener: We will draw the discussion to a close on that note. I thank the panel members very much for joining us on international women's day. We will have a short suspension to allow for a changeover of witnesses.

11:21

Meeting suspended.

11:26

On resuming—

The Convener: I warmly welcome to the meeting our second panel of witnesses: Craig Naylor, chief inspector, His Majesty's Inspectorate of Constabulary in Scotland; Detective Chief Superintendent Sam Faulds, head of public protection, specialist crime division, Police Scotland; and Moira Price, national procurator fiscal for domestic abuse and head of victims and witnesses policy team, Crown Office and Procurator Fiscal Service.

We will move straight to questions, and I will begin with a question for Sam Faulds and Craig Naylor. We heard in the previous session fairly extensive commentary from witnesses on the key role of police officers in using the new legislation. I appreciate just how big a change it will have been for police officers to use such a different and quite novel piece of legislation.

We know from the written submissions that the training process for officers has been disrupted because of the Covid-19 pandemic, and we have heard about the potential impact of that on what has been described as the "confidence" of police officers in using the legislation. I therefore want to ask Sam Faulds what work is on-going to address that training requirement, particularly with regard

to divisional or tier 1 officers, who are at the front end of the policing response.

Detective Chief Superintendent Sam Faulds (Police Scotland): When the legislation was implemented, we undertook a significant operation to train the number of officers who were trained at that time. We have retained the training licence for domestic abuse matters through the College of Policing, and the plan is that that will continue. However, it would be remiss of me not to point out that we had Covid and the public health crisis, although police remained on the front line and domestic abuse calls were one of the types of calls that always received a face-to-face response. We also had the 26th United Nations climate change conference of the parties—COP26—in Scotland. Therefore, over the past two years, there has been a significant impact on training.

We recognise that a number of officers have left the organisation for various reasons, such as retirement, and a number of new recruits have come in, so it is important that we continue the training regime. However, training has been significantly impacted across the board. That applies not only to domestic abuse training but to the broad spectrum of training—public protection training is the one that I am usually fighting for—and we now hope to start to pick that back up.

11:30

The Convener: Do you have timescales for that? I know that there are often unforeseen abstractions for divisional officers in particular, but can you comment further on timescales for training?

Detective Chief Superintendent Faulds: Some of that is still impacted on by the backlog of training that has to happen to build cadres of specialist officers back up. We have a programme of refresher training. That is more for probationers, who are what our academic colleagues would refer to as the tier 1 front-line response, and the new officers who have come through. That gets picked up during probationer training, but the central team that reviews all of the training materials and products is currently considering how we can improve that. It is a rolling programme, and I do not have specific timescales for you.

The Convener: I will bring in Craig Naylor on training and, in particular, timescales in light of some of the work that HMICS has already done on the issue.

Craig Naylor (HM Inspectorate of Constabulary in Scotland): Yes—one of the recommendations that we made in the report that we published in January related to that. We do not see training as a one-off event. As was mentioned, it has to be continuous and repeated regularly to update officers on, for example, how new and emerging legislation matters, how stated case law is changing and how they become competent, maintain that competence and go on to provide an excellent service. However, there are challenges with that. There are more than 11,000 front-line officers in Police Scotland, and it was exceptional for them to undertake the domestic abuse training that they did during the pandemic.

That is a good starting point, but the question for me is what is next. Sam Faulds mentioned issues such as continuing that training, ensuring that it is relevant to the officers and learning from our inspection and the academic inspection work that has been done to understand what a victim needs. That is absolutely where we need to address the training, but we also need to address offenders' needs more effectively.

The Convener: I am sure that there will be more questions on training from members.

Moira, I will ask you much the same question. Have there been challenges with the way in which understanding and knowledge of the new legislation are being developed in the Crown Office and Procurator Fiscal Service, in particular across the procurator fiscal body? Will you comment specifically on training that has been delivered?

Moira Price (Crown Office and Procurator Fiscal Service): The COPFS carried out significant training for not only our legal staff but our victim information and advice—VIA—staff in the prosecution service in advance of the act being implemented, so that staff were fully aware of the nature of the new legislation and how we will investigate and prosecute it, and so that they had a clear understanding of the type of evidence that would be required to prove the new type of offence. That comprised face-to-face training for all prosecutors plus specifically designed e-learning for them. New members of staff also undergo that training when they join the COPFS.

In addition to the training on DASA, as a matter of routine, we provide accredited domestic abuse training to members of legal staff who will be involved in the prosecution of domestic abuse and to victim information and advice staff. For legal staff, that includes a three-and-a-half-day training course on domestic abuse, which includes half a day spent with specialist support agencies that provide external support to victims of domestic abuse, so it is extensive training.

Craig Naylor mentioned the need for training to be updated as new case law is developed. We have provided updates to staff because, during the past couple of years, there have been significant cases and reports issued by the court—the High

Court, in particular—in relation to the application of DASA. We keep our legal staff updated on those cases as they are produced so that our staff have as full as possible an understanding of how to prosecute and of the proper investigation that is required for offences under the new legislation.

The Convener: I have one final follow-up question on that topic. I know that it is probably difficult for you to speak on behalf of other organisations within the court environment, but are you aware of any other training that is being delivered to defence solicitors, VIA staff and so on?

Moira Price: I am not aware of training for defence solicitors, but the police and the COPFS have worked together and provided mutual training to each other. In fact, the police participate in our domestic abuse training to prosecutors, and we are both involved in the provision of training about the criminal justice system to independent domestic abuse advocates.

The Convener: That is helpful. I will bring in other members.

Jamie Greene: Good morning. Some of you—perhaps all of you—sat through the previous session, so you will have heard some of the issues that were raised by the organisations that support victims of domestic abuse. I want to focus on the procedural issues about how we get from the point of someone reporting an incident through to a successful conviction, and the pathway that that incident will take.

My first question is an overarching one, and I ask it only to get a feel for your views. About 20 years ago, around 33,000 domestic abuse incidents were reported to the police in Scotland each year and, 20 years later, that number has almost doubled to 65,000. There has been a lot of conversation about whether that is good, bad or indifferent. There is a school of thought that, as a result of a series of education and public awareness campaigns and a shift in social concepts, people are more willing to report incidents today than they were two decades ago and that is good news. Equally, however, there could be concern that there is an increase in incidents.

That is the issue that I tried to raise with Dr Marsha Scott. Do you have a view on that? There has been a trend, and the number has been on the rise. There was a small decrease of 1 per cent last year but, overall, the number has been rising considerably, and especially during the past seven to eight years. Clearly, that is of concern to the committee and to those involved.

Detective Chief Superintendent Faulds: My view is based on 30 years in policing and having seen changes in attitudes towards domestic abuse, both in the police and in the communities that they work in, during that time. I see the increased reporting as positive, simply because I do not believe that the incidents were not happening 20 years ago; I think that they were just not recognised as abuse or as a criminal matter. People did not necessarily report incidents of domestic abuse, as it seemed to be dealt with as a private issue. The police have also become better at recognising and recording incidents.

To me, the increase is positive, but this is a societal, generational and cultural change that will take a long time, and the decrease in the number might take a long time as well.

Jamie Greene: I hear what you are saying, but the number is still quite high. Even if there has been an increase in reporting, the figure is still high.

Detective Chief Superintendent Faulds: It is a high figure, but academic research shows us that we have a huge number of individuals in Scotland who do not report, so there is a lot of unreported abuse, as well.

Jamie Greene: That is also worrying.

Craig Naylor: It is a very good question. I echo Sam Faulds's points. Having lived through the past 35 years in policing, I have seen a significant change in the governance of how we record these matters. Officers are encouraged to treat them much more seriously than they were treated when I joined the police. When I joined the police, if it happened behind a closed door in a private place, it was not really our business. Since 2007-08, when there was an HMICS report on the issue, there have been concerted efforts by policing in Scotland and Police Scotland to change that view and change the view of every officer who serves, because a victim is a victim, no matter where the crime occurs.

As we say in our report, progress on that has been remarkable, but we are still in a position where the majority of victims will not report the first time that they become a victim. They will not report it the second time, and very often it is the fourth, fifth or perhaps seventh time before they come forward and tell a family member or friend, and, eventually, a police officer about it.

As DCS Faulds said, domestic abuse is vastly underreported. The fact that we have doubled the figures in 20 years is indicative of the efforts that Police Scotland has put in to more accurately reflect what is going on and address the problem. We tend to focus on the victims, which is how it should be, but we need to recognise who else is around them. That means the children in the family and other family members but, most importantly, it means the person who is causing the harm. I do not think that our society focuses

enough on the people who commit this dreadful crime against people whom they allegedly love.

Jamie Greene: Before I move on to get the Crown's position, perhaps this is a good point to look at the data. I will cherry pick data for 2020-21, because it is recent. Of the 65,000 domestic abuse cases that were reported to the police, my understanding is that 1,600 crimes were recorded under DASA—I need to be careful with my terminology here, because it is very easy to confuse statistics. Of those 1,600 crimes, 1,200 charges were reported. As the convener said in her opening comments, there were proceedings against 420 individuals in 2020-21, and 383 successful convictions.

I am looking at that ratio. If you start with 65,000 incidents and under DASA have 383 convictions, although every one of those convictions is welcome to the victim, that is 0.5 per cent of the total number of incidents, which does not seem great. I know that it is a journey, and that it is a new piece of legislation. The direction of travel has been okay over the past couple of years, but that ratio seems underwhelming. What is the Crown's role in all this?

Moira Price: I am with Sam Faulds and Craig Naylor in hoping that the increase in reports reflects increased confidence in victims and witnesses that, if they report domestic abuse, it will be taken seriously. When the Crown Office and Procurator Fiscal Service receives reports of domestic abuse from the police, we assess the evidence and whether it is more appropriate to raise a prosecution under the new DASA or under an existing common law or statutory offence with the domestic abuse aggravator attached.

The fact that a relatively low number of domestic abuse offences were recorded as reported in 2020-21 reflects the fact that the legislation was new but, more importantly, that it is a course-of-behaviour offence. For a course-of-behaviour offence to take place, there has to be a start point, and it may take time before there is sufficient evidence to establish a course of behaviour. That may be reflected in the number of reports that were received over that period.

However, from the statistics for 2020-21, I emphasise that, when those cases were reported, prosecutors took an initial decision to proceed to court in 92 per cent of them. The principal reason why proceedings were not taken forward was that insufficient evidence was available. That reflects the fact that prosecutors exercise proper professional judgment and consider the facts and circumstances of an individual case when determining whether there is sufficient evidence in law to proceed.

11:45

Jamie Greene: There is a dichotomy: we can analyse statistical data and take a view on that, but the anecdotal evidence, of which we have taken a lot, is equally important to us. I refer to a recent Women's Aid blog, in which it is made clear that survivors of domestic abuse express

"significant concern that the investigation, prosecution and sentencing for domestic abuse offences, did not take account of the sustained level, severity, or impact of abuse they had experienced."

It is very clear to many of us, through case work that we do, evidence that we hear in private and public and from the organisations that work with survivors, that many people in Scotland still feel really let down by the whole system. That is not to disparage the officers who deal with tier 1 reports, the advocates who pick up the cases or the judges considering the evidence before them—or indeed the juries if it comes to that. It is clear that the whole system is letting people down and they are not being supported. How do you respond to that criticism?

Moira Price: I do not think that it would be possible or appropriate for me to comment on sentencing, which is a matter for the independent judiciary. However, in relation to the investigation of domestic abuse, the police and the fiscal service have established a clear joint protocol to set the best standards of service to be provided in the investigation and prosecution of crime. That sets out very clearly the various avenues of inquiry that should be pursued and the information that prosecutors need in order to properly consider domestic abuse cases. We work closely with the police to ensure that we receive the appropriate information that we need as prosecutors to take decisions in such cases.

I emphasise that we need to consider each case on the basis of its individual facts and circumstances. We consider whether there is sufficient evidence in law and public interest in prosecuting. We will apply a presumption in favour of prosecuting in all cases of domestic abuse, whether that be an offence under DASA or any of the other statutory or common law offences to which a domestic abuse aggravator can be added. We take a very proactive line in ensuring that we raise domestic abuse prosecutions where possible, based on the available evidence.

Jamie Greene: Before I go back down the line of witnesses, I will add in the issue of sentencing, because Dr Scott was clear that sentencing could be tougher. It is all very well to pass it on to another element of the judiciary who are not here to defend themselves, but it is not just down to decisions by individual judges and sheriffs. The Scottish Sentencing Council is also involved, and that is often underpinned by legislation, which

dictates the direction of travel. Perhaps in your answers you could respond to the school of thought that the current sentences are not proving to be a deterrent at all to some individuals.

Craig Naylor: I echo the point that Moira Price made. I do not sit on the Sentencing Council and I do not have a view on that—it would be inappropriate for me to take a view.

I would turn the point on its head. We need to consider that 65,000 victims have come forward and have trusted the services, some of which have been outstanding and some of which have been less so. We need to focus on trying to fix those at the lower end of service provision, so that, when a victim comes forward, they can trust the police service, the support mechanisms and the fiscal service to get to the point where we have the best chance to get not just a conviction but a place where they can move on with their life in the way that they want. That is the really tricky bit.

They are all individual cases and there are 65,000 plus of them. It is very difficult to manoeuvre through someone's life and help them to face the challenges—including challenges of finance, accommodation, caring for children and other people around them—while trying to navigate a criminal justice process that is very adversarial and that can be daunting for a victim who is coming into contact with it probably for the first time in their life. The challenge is how we support them through that process and get the outcome that they deserve.

Jamie Greene: Especially when people have had the guts to come forward, pick up the phone and make the call to the police, possibly for the first time, after years, only to find, at the end of a torturous three-year journey, that the perpetrator is given a community sentence or a fine, it is no wonder that so many feel let down by the system.

Is there a palpable sense of frustration in the police when officers are called out to households where there are repeat offenders whom they have seen before? Is there frustration that not enough is being done to support victims?

Detective Chief Superintendent Faulds: As my colleagues said, it is not appropriate for me to comment on sentencing.

We see repeat offenders. Domestic abuse is one of those crime types for which the risk of recidivism is high. We recognise that, which is why we try to proactively target individuals who we know are repeat perpetrators.

It would be wrong of me not to recognise that we certainly do not always get it right. However, we work closely with the COPFS to try to improve when it comes to evidence gathering and sufficiency of evidence for police officers to report, and to improve the quality of reporting to the fiscal service, to enable—in the context of the part that we contribute—as informed a decision as possible. We also work with other statutory partners and third sector organisations, and we take victim feedback, and academic research, seriously. We try to learn from that. We have a number of forums through which victims and survivors groups can engage with us and give us feedback on the police response, and we try to take that feedback and improve. However, there is no overnight fix.

Jamie Greene: Thank you.

Katy Clark: I want to ask the witnesses about coercive control, which I raised with the previous panel. May we have a little information about your experience to date? How possible has it been to bring cases? What conviction rates are we seeing? If there are not many cases, it will be difficult to give us a lot of data, but the committee does not have much data. Can you say anything about how easy or difficult it is to secure prosecutions and convictions? The committee would be interested in any information in that regard. I do not know whether you can talk about case law or give examples.

Moira Price: As the committee has heard, coercive and controlling behaviour is a common form of abuse that is perpetrated against victims. In the past, prosecutors were limited in the charges that we could bring to properly reflect such abuse, because we were limited, in effect, to proving single incidents or single offences. The 2018 act has enabled us to present to the court the far bigger picture of what a victim has suffered and to provide evidence about the context of individual incidents in a wider course of abusive behaviour.

If it would be helpful, I can give examples of the types of abusive behaviour that were not previously criminal but which we can now prosecute within the body of a section 1 DASA charge. Such behaviour includes monitoring the victim's movements, restricting their ability to leave the house, isolating them from family and friends, monitoring their use of the phone, looking at their phone messages, constantly accusing them of infidelity, commenting on or controlling their appearance and their wearing of certain clothing or make-up, and making demeaning comments. None of that behaviour was criminal previously, but it can now be encompassed within the body of a section 1 DASA charge.

The 2018 act has also allowed us to include within the body of a section 1 DASA charge incidents that we might not previously have been able to libel, because we could not corroborate them as individual stand-alone crimes. For example, provided that we can establish that there

is a course of abusive behaviour and corroborate that, because we can prove two distinct and separate elements, we can libel other incidents of abusive behaviour within the body of the DASA charge, even if they would not be able to be proved as stand-alone offences.

There have been two recent convictions in the High Court—because DASA can result in up to 14 years' imprisonment—for offences that incorporated what would otherwise have been significant sexual offending that could have amounted to rape. We have been able to achieve justice for the victims in those cases by application of the new legislation. The approach that prosecutors have applied has been approved in recent judgments from the High Court.

Katy Clark: I appreciate what you, and all the other witnesses, said in relation to sentencing: that it is not your role to set sentencing guidelines. However, you have a role in the consistency of sentencing and, on occasion—I appreciate that this may be rare—you will lodge appeals in relation to sentencing. Is there a consistent approach to coercive control cases across Scotland, or have you had to mark appeals?

Moira Price: As prosecutors, we apply a consistent approach to all cases of domestic abuse. I am sorry, but I cannot comment on sentencing at all.

Katy Clark: You cannot even go that far.

You will be aware that the committee is currently looking at new bail proposals. Has there been a change in practice as a result of the 2018 legislation? Can you outline whether it has had an impact on bail in relation to domestic abuse specifically? We are aware of the section 23 provisions, but has there been an increase in the use of remand in domestic abuse cases as a result of the various new offences being brought in?

Moira Price: We will consistently apply the same approach to consideration of opposition to bail or consideration of whether special conditions of bail should be sought from the court in all cases of domestic abuse. To a large extent, that takes into consideration the risk of harm to victims and to children. Whether or not an accused person is remanded or special conditions are imposed is, however, a matter for the court.

Katy Clark: Has your marking of cases for appeal changed?

Moira Price: No. We will apply, and we continue to apply, the same approach to marking, focusing on the public interest and in particular the aspect of risk and safety of victims, and how that can be dealt with by seeking special bail conditions or opposing bail where appropriate.

Katy Clark: So the existence of the new offences should not have made a significant difference to the numbers of people being remanded.

Moira Price: The new offence is another tool that prosecutors can use, in that it is another charge that we can use to address domestic abuse, but it does not fundamentally change the approach that we take to domestic abuse.

Katy Clark: That is helpful—thank you.

Collette Stevenson: Good morning. I will go with the same thread of questioning that I put to the previous panel, which was on the experience of victims and witnesses. We have heard that, for children who go through the system, there has been an adverse impact on coming forward.

The "Justice Report" from the everyday heroes programme, which the previous panel touched on, contains a quote from a child, who said:

> "You get trauma from the bad person then more trauma from the people in the system."

What wider work are you involved in that is aimed at improving the experience of victims and witnesses in domestic abuse cases? I put that question to Moira Price first.

Moira Price: All victims of domestic abuse, and all children in all court cases, are deemed vulnerable witnesses. As such, they are automatically entitled to use special measures when giving evidence in court. They are also automatically referred to our victim information and advice service in the COPFS, which will provide information about the case and make links to special support agencies for the witness or the child, in order to support them and help them to remain engaged with the criminal justice process.

Collette Stevenson: I put the same question to Craig Naylor.

Craig Naylor: The prosecution service is taking these steps very seriously to ensure that victims and witnesses are protected in court. The situation can be difficult, because the prosecution service is often dealing with the parent of the child or the spouse of the victim.

Providing support through third sector organisations can make a huge difference. The difficulty that we have in Scotland is that those third sector organisations are often locally based—they are not national organisations or nationally replicated across the country—so ensuring that there is an equivalence of service throughout the country can be difficult.

We recommended that Police Scotland implement changes to enhance the response at the first point of contact for more complex areas of work such as public protection. That involves

providing people with wider support for what they are going through. It is not just about seeing a police officer or the people doing the investigation; it is a matter of establishing who else can provide support in the community in the wider world around the individuals involved.

12:00

Collette Stevenson: Turning to you, Sam, I note from the evidence from the interviewees in the sample interviews that there was a lack of support or signposting for people who were trying to report an incident to police, and there was an issue around being taken seriously. Will you say more about that?

Detective Chief Superintendent Faulds: Are you speaking about victims in general terms or about child victims or child witnesses?

Collette Stevenson: It is particularly children.

Detective Chief Superintendent Faulds: The police approach to dealing with children—that is perhaps not the nicest way of putting it; I should talk about how we engage with children—has changed significantly over the past few years. We have very much adopted a risk-based approach. We try to adopt a trauma-informed multi-agency approach. You will be aware that we are developing and rolling out the Scottish child interview model in cases of domestic abuse. We are using visually recorded interviews for children who have been witnesses in significant domestic abuse cases, including High Court cases.

We are also engaged with other organisations that are looking to roll out the barnahus model. That includes the Scottish Government and Children 1st, as was mentioned earlier. We try to seek children's views, and we take on board all the research showing that children need to feel included and heard. Where appropriate, we will seek their views, although a very careful approach is taken to actual interviews with children.

Collette Stevenson: Thank you.

Russell Findlay: The written submission from Police Scotland was really detailed and helpful. On page 9, it refers to two cases, which Moira Price has already referred to. Those are cases where DASA was successfully used to prosecute rapes under a DASA charge, which otherwise would have been uncorroborated and not prosecuted. Those cases are both the subject of appeals, and I will not ask you to predict the outcomes, but I would like to ask you a two-part question.

First, do those appeals have any bearing on current DASA cases, or are any cases incorporating a rape charge or rape element on pause because of the appeals? Secondly, in the worst-case scenario, if the cases are successfully appealed, does that fundamentally derail DASA for that purpose?

Moira Price: I am not aware of any pause in relation to how we apply DASA in light of any appeals that may be on-going, but there has been a recent case in the High Court, CA v Her Majesty's Advocate, which endorses and confirms the approach that the Crown has always taken to the interpretation of DASA.

Russell Findlay: Has that appeal been through the court?

Moira Price: It is a concluded case, with a decision issued by the High Court.

Russell Findlay: I do not know, but that might be one of the cases that is referred to in the Police Scotland submission.

Moira Price: That case did not relate to an allegation of significant sexual offending within the body of the charge, as far as I am aware.

Russell Findlay: Right—so it is more about the application of DASA.

Moira Price: Yes.

Russell Findlay: So, on those other cases, it is a matter of "Watch this space." What about the question whether it could potentially derail DASA if those cases were successfully appealed?

Moira Price: I do not understand that the appeal cases—if cases are being appealed—would necessarily derail DASA, particularly given that the High Court has recently issued a judgment that appears to confirm the understanding and interpretation of the legislation that the Crown has always applied to it.

Russell Findlay: Thank you. My second question is for DCS Faulds. The findings of the research from the University of Edinburgh that was referred to in earlier evidence, in which 22 victims talked about their experiences, was fairly critical. Dr Houghton, who is still with us in the public gallery, described it as "unremittingly grim."

Regarding the police, the research describes the process as "inconsistent" and says that

"victims and witnesses were required to proactively collect and push for particular evidence to be considered."

I am sure that you are aware of evidence of that nature.

I completely understand that everything revolves around funding. The chief constable has already stated that the current policing model is "unsustainable" on the basis of the funding model available to the police.

Your written evidence says that about 13,000 officers have had core training and 600 have had champions training. Earlier, the convener asked

what was happening next and whether there were any deadlines or targets. Can you indicate whether that training is now back on track, what the targets are and where you are likely to go from here?

Detective Chief Superintendent Faulds: We have been working with SafeLives, which helped us to deliver the domestic abuse matters training—or DAMs training—in the first place, and six continuous professional development modules have been developed and signed off with SafeLives for delivery to the champions. The intention is that the champions, who are distributed across the organisation, will help to support front-line officers and officers within the contact, command and control division in the whole of their decision making, by supporting them with additional training and information and cascading that down.

That training is due to commence shortly. Forgive me, but I would need to check the timeline and come back to you on it.

Russell Findlay: Of course.

Detective Chief Superintendent Faulds: I cannot remember the timeline for it, but the six modules are ready, and we will be pushing them out to the champions.

Russell Findlay: I have a quick supplementary question for Mr Naylor. Does HMICS have any remit around training and targets? Can you hold the police to account in certain ways?

Craig Naylor: Certainly. We made a recommendation in our most recent report about training. We are expecting an updated plan on what the training involves from Police Scotland within three months of the report's publication. I have no reason to believe that we will not get that; Police Scotland is usually very good at following up on recommendations and making a significant difference when it does so. We would expect to see the details that DCS Faulds has mentioned on the nature of the training, including the champions training. In our report, we have discussed how the champions need to be empowered to do more.

Russell Findlay: So, we will see that within three months.

Craig Naylor: It will come to us within three months; I suspect that it will come to the Scottish Police Authority at some point around then, too.

Russell Findlay: I have a further quick question. We heard from the previous panel about civil and criminal cases, where domestic abusers sometimes use the civil courts to prolong the abuse, or to play the criminal case off against the civil case and vice versa. In a particular case that I have been dealing with, the individual is frustrated that the Scottish Legal Aid Board appears to be blind to what is going on. There is an organised crime element to that, with previous convictions and, allegedly, the hiding of assets, but it looks like the defendant is going to get legal aid. Do the police have any mechanism at all for feeding into legal aid decisions of that nature? Is there any protocol, memorandum of understanding or sharing of information?

Detective Chief Superintendent Faulds: Specifically around the granting of legal aid applications?

Russell Findlay: Yes—for cases where you may be aware that individuals are seeking to obtain legal aid and they are not being honest. The case may involve serious organised crime or convictions of a domestic nature that are influencing the matter as part of a culture of using civil legal aid to prolong abuse that is criminal. Do the police have any mechanism for talking to the Legal Aid Board?

Detective Chief Superintendent Faulds: First, I whole-heartedly agree that the civil process is often used as a manipulative tool to continue to perpetrate abuse against victims. However, I am not aware of any structured feedback process, information-sharing protocol or memorandum between us and the civil courts or the Scottish Legal Aid Board. We have a lot of engagement with them, but I am not aware of anything particular in that regard.

Russell Findlay: It would potentially be of value to consider that.

Detective Chief Superintendent Faulds: Yes.

The Convener: I ask members to keep questions focused on the Domestic Abuse (Scotland) Act 2018, which is what we are considering today.

Rona Mackay: Good afternoon. I go to DCS Sam Faulds first, with the same line of questioning that I put to the previous panel about domestic abuse protection orders and the possibility of stalking protection orders.

I am not sure how much you can say about this. Have you had any discussions with the Government about the implementation of such orders? In your view, what difficulties might exist?

Detective Chief Superintendent Faulds: We have had significant engagement with Scottish Government colleagues and other partners in the justice system around the legislation. It is fair to say that it is not only the police who have raised concerns, and that our concerns are not simply financial or around resource demand. We have concerns around risk and how the legislation might be implemented, which we have fed back, and we have had very productive meetings between all the justice partners and the Scottish Government

to highlight all the issues that we, collectively, are seeing.

It is not seen as an unsolvable problem. We are frantically working towards a solution for domestic abuse protection orders—we are certainly not trying to put up a barrier. We are asking how we can overcome those challenges. We are not trying to point fingers—we are simply trying to overcome the hurdles that we see in front of us. It is not about money.

Rona Mackay: I totally appreciate that. It is good to hear, because the legislation has to be right—you cannot embark on using it if there are certain issues that have not been ruled out. The benefit for the victim would be that they would not have to go down the civil route, and they could avoid the expense and stress of having to do that. If the issues can be worked out, that would be excellent.

Does anyone else on the panel have a view on that? Mr Naylor, do you want to come in?

Craig Naylor: We have not been involved in those conversations. We would look at the outcome and at how the police and justice services would develop and improve capability in that regard. More philosophically, we very much support new powers and legislation to protect people, if we can do that effectively in a way that balances budgets and challenges around resources and gets the best outcomes for victims and their families.

Rona Mackay: Personally, I think that using the legislation will be a game changer if it can be done effectively, and if all parties are able to do it without a great deal of hassle.

Moira Price, do you have a view on that?

Moira Price: As an organisation, COPFS is supportive of anything that can be done to further protect victims of domestic abuse. In relation to that particular legislation, however, prosecutors would be involved largely in the event of a breach of such an order, which would be a crime. Prosecutors would not be involved in seeking those orders under the legislation.

Rona Mackay: Yes, of course. I have a quick question for you, Moira. I am sorry—I may have missed this when Katy Clark was speaking. How do you differentiate between using DASA and using other legislation? What criteria would you use to say that one case clearly comes under DASA and another would not? Is there anything concrete in that regard?

Moira Price: It comes down to the facts and circumstances of an individual case. There are certain legal rules with which we would need to be able to comply in order to prove a DASA charge—namely, whether we can prove that there is a course of abusive behaviour, and that that behaviour meets the criteria that is set down in the legislation. If it does, we can prove a DASA charge, and in general we would prosecute under DASA. Sometimes we cannot prove a DASA charge, but we can prove individual incidents under the existing common law or statutory provisions.

It will depend on the case, and each and every case will be considered on the individual facts and circumstances.

The Convener: I will bring in Pauline McNeill and then Fulton MacGregor.

Pauline McNeill: Good afternoon. I thank the witnesses for their evidence so far—I have found it helpful, in particular Moira Price's responses to Katy Clark's question on coercive behaviour. I want to get Sam Fauld's view on it as well, so I put my question, which follows on from that, to her.

We heard in evidence from the previous panel that it tends to be tier 1 officers rather than more specialist officers who are trained to identify abuse who respond to domestic violence abuse cases, because the tier 1 officers are on the front line.

12:15

I am particularly interested in the coercive behaviour side of things. By the very nature of that crime, I imagine that it is always going to be difficult to identify it or to provide evidence on such a course of conduct. Do you have anything to offer the committee on how coercive behaviour can be better identified on the front line?

Detective Chief Superintendent Faulds: We still have a long way to go when it comes to officers' training, understanding and awareness of what constitutes coercive control and to get them to recognise the impact across the relationship, rather than just taking incidents in isolation.

Earlier, there was a comment about tier 1 responders being slaves to the radio. To put that in context, not every domestic incident call to the police will result in the establishment of a crime. A big percentage are no-crime incidents. Overnight, there are around 140 or 150 calls to the police about domestic abuse, but there are also in excess of 400 calls about concerns for people, and in excess of 100 calls about missing persons. That is the demand on front-line officers. It is unfair not to recognise that they do not always get the time to sit down and build enough of a relationship with victims.

Where a crime has been established but coercive control has not immediately been evidenced, tier 2 will pick that up. We have specialist officers in tier 2. To give a platinum service, everybody in tier 1 would be a specialist

domestic abuse officer. However, we just do not have the resources to do that. That is why we have domestic abuse champions and why each division has specialist domestic abuse officers, who pick it up on the following day, do safety planning and perpetrator management planning, engage with the victim and obtain fuller statements. However, we are just not able to send a specialist officer out to 150 calls a night.

Pauline McNeill: Thanks for that. I was not suggesting that. I totally accept that we need our front line.

Moira Price, to follow on, does coercive behaviour tend to go along with physical abuse? Are there any patterns, or is it a stand-alone crime? I am trying to visualise that behaviour in the context of what Sam Faulds said. Obviously, it can be a stand-alone crime. That is the point of the act. Coercive behaviour can be a course of conduct over a long period. It is not physical abuse but mental abuse.

It is just my perception, but I would not have thought that someone would lift the phone and say, "I think that there's been a crime of coercive control against me." I am trying to visualise how coercive behaviour would be captured. Does it tend to coincide with physical abuse? If you could help me on that, that would be helpful.

Moira Price: Each incident of abuse will be particular to that accused and to that victim. Some courses of behaviour might well include violence, threats and intimidation—all of which would be crimes anyway—but some might not. From the academic research and the voice of experience that has been provided to us by victim support organisations and the task force, we have learned that, often, coercive control involves not the use but the threat of violence, which can be as powerful and have as significant an impact on the victim. So, yes, in some cases, there might be violence alongside the behaviour of coercive control but, in others, there will not necessarily be violence.

Pauline McNeill: Yes—I thought that that was what you had said. I am trying to work it out. Where there is no violence, how can you possibly pick up cases of coercive control? You have mentioned that there have been a couple of cases already, and that the judgment has endorsed the Crown's approach, which is good. How would those be picked up, if there is no physical abuse? I am really struggling to see how they would get into the system.

Moira Price: They would be picked up through a victim reporting a crime.

Pauline McNeill: Do they simply report it like any other crime?

Moira Price: Yes.

Pauline McNeill: Okay. Craig Naylor, you look as if you want to say something.

Craig Naylor: For our inspection report, we struggled to understand the intersection between victims of sexual crime, domestic abuse and coercive control, and how, almost like a Venn diagram, the crimes layer on top of each other.

It is important to understand the journey that brings an individual to the point of reporting. Sometimes people will report sexual crime, sometimes domestic abuse. People rarely report coercive control on its own, but when we start exploring the depths of a victim's journey we generally find more than just one aspect. There may be an initial physical assault or domestic abuse, but we then find that the victim's phone or bank account is being controlled. As in the two cases that were described, there may be elements of sexual crime that would be difficult to prove as stand-alone sexual crimes. However, because they sit within the DASA framework, elements of the DASA legislation can be used.

It is very complex to peel a situation apart or to say that we will always see certain things. It does not work like that. It is important to understand the victim and how to deal with that victim, building their confidence and trust and getting to a position where they tell the whole story, which can very often take weeks or months.

Pauline McNeill: That is really helpful; thank you.

The Convener: I would like to pick up on that before I bring in Fulton MacGregor. Moira Price, we have heard that proving a DASA charge requires proof of on-going behaviour. The Crown Office may be waiting for proof of such sustained behaviour, while in the meantime a victim may still be living at quite high risk of harm. Would the Crown Office prioritise single charges over other offences in the interim?

Moira Price: There is a difference between summary procedure and solemn procedure. If an accused is reported and is placed on a summary complaint, the charges are effectively crystallised at the point when the accused appears in the summary complaint, although we do have the power to raise subsequent proceedings or to move to amend the complaint if further information comes in.

On the other hand, if we raise solemn proceedings, where the accused initially appears on petition, that will be followed by an investigation that would enable us to receive further information and perhaps to change the charges before the accused is finally served with an indictment.

Charges are generally based on the available information. If there appears to be scope for further investigation, we will instruct that of the police. Each case depends on its own facts and circumstances. We would certainly not wait for a victim to suffer further abuse before raising proceedings, if there is sufficient evidence to enable us to raise proceedings and to seek, for example, a protective bail order in the interim.

The Convener: That is helpful.

Fulton MacGregor: My question follows on from what Pauline McNeill and the convener have asked, and from my line of questioning for the previous panel. It is about victim confidence in the legislation. In fact, "victim confidence" is probably not the right term. This is about public confidence and the public realising that there is a new offence that deals with something that is as wrong as a physical assault.

There are similarities between the two crimes. The evidence that we have heard suggests that domestic violence would not have been seen as an offence several decades ago, although most people now understand that it is. They may not report it, which is a completely different matter that can also involve control issues, but most people now understand that an assault is an offence.

How can we get the wider public to that same place with this offence? I am assuming that both the police and the Crown will know of situations in which officers will have said that something might be an offence but the victim has not known that. Is there anything more that the committee or Parliament can do to promote that understanding?

Moira Price: I completely agree that increasing public understanding and awareness of the offence, and of domestic abuse in general, is essential to our being able tackle it as a society. As Sam Faulds and Craig Naylor have said in different answers, it is important that we effect a societal, cultural and generational change in how we deal with domestic abuse.

The more that victims have confidence to come forward and see that they can achieve justice, and the more that that is reported, the more the general public will understand how seriously criminal justice agencies treat this type of offending. People will then have the confidence to report what happens to them if they are the victims, or to report what they see happening to friends, neighbours or relatives, so that the organisations that can take action are able to take action.

Fulton MacGregor: I remember the bill in the previous parliamentary session. As I said, I was on the committee and there was a lot of talk that the bill, while bringing in a new offence, was also trying to change the culture around the issue. I remember members from all parties speaking about that in the debates. Are we changing the culture? Are we on the right track?

Detective Chief Superintendent Faulds: That process has perhaps started, but there is still a long way to go. It is not just about public awareness of the new DASA offence, because domestic abuse is an umbrella term that captures the whole spectrum of abuse, including physical, sexual and non-physical psychological abuse.

To get ahead of the curve, we need to start early, with education. It is only one programme among many, but we have started the "You, Me, Together" programme, which we hope to get pushed out to as many schools as possible. That is for boys and girls, because the definition is not gender specific. Education should start at as young an age as is appropriate and possible. I cannot dictate what is in the education curriculum, but we need to start early with education and get ahead of the curve in order that we can make the societal change that we all know is needed, because policing in isolation will not solve the problem.

Fulton MacGregor: I agree with that. There is perhaps some overlap in that with work that is done by the Education, Children and Young People Committee. Craig Naylor, do you want to add anything?

Craig Naylor: I absolutely agree with everything that Moira Price and Sam Faulds have said. It has been on a common theme. Perhaps to pull from a slightly different field, I note that I was delighted to be present when Sam Faulds and her team recently got an award for the "Don't be that guy" campaign, which is about sexual offending and dealing with the offender. There are good parallels with that, and there are good opportunities to apply how that campaign has been done to increasing understanding of the DASA legislation.

I know that work has been done by forces in England and Wales on tackling offender behaviour—in particular, on understanding what people around the offender see and understand, and on the development and spiralling of domestic abuse through coercive control and so on. We should learn from that and understand it more widely. It would be fantastic to take that back to the Scottish Government and to understand what responsibilities of Parliament and all the other statutory bodies in policing, education and health are needed in order to push that forward.

The Convener: I bring in Jamie Greene to finish things off.

Jamie Greene: I have two short supplementary questions. The first follows on nicely from the conversation that we have just had. The best way to deal with domestic abuse is prevention, rather

than cure. On that point, is the panel confident and comfortable that the delivery of what is known as Clare's law has been effective in Scotland through the domestic violence disclosure scheme? Does Police Scotland have any statistical data on how many people have applied through that scheme for information and, in the positive, been granted information since its launch?

Secondly, are Police Scotland's data systems up to scratch in terms of a national register that pulls together relevant information to feed into those requests?

Detective Chief Superintendent Faulds: The disclosure scheme for domestic abuse Scotland was introduced as Clare's law down south, but is known as DSDAS up here. There are two routes into the scheme. A victim or concerned family member can make an application through the right to ask, and police officers and other professionals can make an application via the power to tell.

Since 2016, we have consistently seen an increase in applications to the scheme, and there has been an increase in disclosures. Not every application will result in a disclosure; it is very much a risk-based multi-agency decision whether to make a disclosure. We saw a real increase during the Covid pandemic, in particular. I can get back to you in writing with figures and statistics on that, if that would be helpful.

12:30

As I said, there was a real increase in applications to the scheme through both the right to ask and in the power to tell, which gave me some confidence that officers were still responding to domestic abuse during the pandemic, that they were still recognising risk and that they were making applications themselves for victims or potential victims to be given the right information so that they could make informed decisions about their own relationships and lives.

I can get back to the committee with some statistics, but the numbers are really pretty high. I might be wrong, but I would say that the figure is around 9,000 applications—although not all of them have resulted in a disclosure. When we compared it with Clare's law, the use of the scheme in Scotland was much better.

Jamie Greene: That is what I was trying to unearth: how successful the scheme here has been in comparison. We know that there is a sex offender register, but there is not a centralised domestic offender register, as such. However, there are other data sets that people can access through the scheme, which might be helpful.

Detective Chief Superintendent Faulds: The sex offender register is conviction based. The disclosure scheme for domestic abuse in Scotland is based on relevant information and intelligence; it is not based solely on conviction data. That is important, because not everybody is prosecuted and convicted. We have to take all the information into account to allow the person to be empowered themselves by the info. Hence, the scheme is not conviction based, which is a real positive in the scheme.

Jamie Greene: I presume that there are safeguards to ensure that people are not obtaining information maliciously based on false premises.

Detective Chief Superintendent Faulds: Yes.

Jamie Greene: So, that helpful safeguard exists.

Detective Chief Superintendent Faulds: The scheme is a very considered scheme that takes into account human rights provisions and so on, and whether we have a lawful basis for a case. It is very much a multi-agency approach that includes a decision-making forum before we go to the individual and give them information.

Jamie Greene: If you have any more information on that scheme, I kindly request that you write to us with any data that you have. I would find that really helpful, as we proceed with our post-legislative scrutiny.

Detective Chief Superintendent Faulds: Certainly.

Jamie Greene: While you are on the line, as it were, you will be aware that I asked the previous panel about male survivors of domestic abuse. What is your gut feeling about how Police Scotland deals with reports of domestic abuse? I know that you will say lots of positive things about the good work that is done on the front line, but is there any sense at all that different officers deal with such reports differently? Are you comfortable that everyone is fully trained to deal with a man reporting domestic abuse and that he will be dealt with in the same way as anybody else would be dealt with?

Detective Chief Superintendent Faulds: As, I think, has already been mentioned, our definition is inclusive; it is not gender specific, albeit that we recognise the disproportionate impact on female victims. Officers are trained to include every victim. Their training does not exclude male victims of domestic abuse; it is inclusive of them.

The specialist training involves lived experience. We engage with Abused Men in Scotland—AMIS—which forms part of the national forum. We take feedback from AMIS all the time on what we could do to improve things. I would like to do some media work with AMIS, but there are budgetary restrictions around what I can and cannot do, so I have to target campaigns and messaging at the

biggest audience with whom I can make a difference.

We recognise that there are male victims.

Jamie Greene: Thank you for that.

The Convener: That brings us nicely to the end of our evidence session. We are grateful for your answers to our questions. Before you leave, would any of you like to make a final comment on what, specifically, we need to think about that has perhaps not already been articulated or reflected this morning, as we continue our post-legislative scrutiny of the 2018 act? Do you have any final points to raise?

Moira Price: From the prosecution prospective, the 2018 act has been a very positive development. The use of the legislation has allowed us to lead evidence from witnesses in a way that lets them tell their full story, whereas before that, we would have had to artificially stop them part of the way through their story in order to move on to ask them about the next incident.

Our perspective is that the legislation works well. That is because it was based on very good collaborative work being done in advance by a number of criminal justice agencies. It was designed and developed based on experience of investigating and prosecuting and based on lived experience of domestic abuse. I have nothing further to say to the committee about proposed changes.

Craig Naylor: I echo those comments. The 2018 act is good legislation and the training that has been done in both our organisations has made a huge difference, but we cannot arrest our way out of the problem. There is a wider societal issue and we need to think more about prevention. When we reach the point of cure, we are getting better at that, but prevention must be the next target on our list.

Detective Chief Superintendent Faulds: Mine is probably a very practical comment. As the previous lead of the tier 3 response, I have really seen the benefit of the legislation. Previously, officers investigating domestic abuse that involved repeat perpetrators or multiple relationships were often frustrated that they were capturing evidence of abuse that was not criminalised at that time. The legislation has made a huge difference to us, particularly with tier 3 repeat perpetrators or perpetrators with multiple victims. That has made a difference on the ground but, as Mr Naylor said, we recognise that there is still a long way to go.

The Convener: That concludes our public session. I thank everyone who has joined us.

12:36

Meeting continued in private until 13:00.

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