



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Criminal Justice Committee

**Wednesday 25 June 2025**

**Session 6**



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**Wednesday 25 June 2025**

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**CRIMINAL JUSTICE COMMITTEE**

**20<sup>th</sup> Meeting 2025, Session 6**

**CONVENER**

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

**DEPUTY CONVENER**

\*Liam Kerr (North East Scotland) (Con)

**COMMITTEE MEMBERS**

\*Katy Clark (West Scotland) (Lab)

\*Sharon Dowey (South Scotland) (Con)

\*Fulton MacGregor (Coatbridge and Chryston) (SNP)

\*Rona Mackay (Strathkelvin and Bearsden) (SNP)

\*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

\*Pauline McNeill (Glasgow) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Pam Gosal (West Scotland) (Con)

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

Agata Maslowska (Scottish Parliament)

Charlie Pound (Conservative MSP Group)

Ash Regan (Edinburgh Eastern) (Alba)

Maren Schroeder (Office of Ash Regan MSP)

**CLERK TO THE COMMITTEE**

Stephen Imrie

**LOCATION**

The David Livingstone Room (CR6)



## Scottish Parliament

### Criminal Justice Committee

Wednesday 25 June 2025

*[The Convener opened the meeting at 09:32]*

### Decision on Taking Business in Private

**The Convener (Audrey Nicoll):** A very good morning, and welcome to the 20th meeting in 2025 of the Criminal Justice Committee. We have received no apologies, and Fulton MacGregor joins us online.

Our first agenda item is a decision on whether to take business in private. Do we agree to take in private agenda items 7 and 8?

**Members** *indicated agreement.*

## Prevention of Domestic Abuse (Scotland) Bill: Stage 1

09:32

**The Convener:** Our next agenda item is an evidence session on the Prevention of Domestic Abuse (Scotland) Bill at stage 1 with the member in charge of the bill, Pam Gosal. Pam is accompanied by Roz Thomson, who is a principal clerk and the head of the Scottish Parliament's non-Government bills unit; Agata Maslowska, who is a senior clerk in the non-Government bills unit; Ailidh Callander, who is a senior solicitor in the Scottish Parliament's legal services department; and Charlie Pound, who is a researcher for the Conservative MSP group. I welcome you all to the meeting.

The purpose of the session is to inform the committee's understanding of what the bill proposes. The committee is used to dealing with the subject of domestic abuse and the wider agenda around violence against women, and we take those issues very seriously. I remind everyone that this is an initial evidence session. The committee will take a decision at a meeting in September on its approach to future evidence taking from other witnesses.

I refer members to paper 1 on the bill. I also refer members to the letter from the Scottish Government giving its views on the bill, which was circulated on Monday and is published online. I intend to allow about an hour for the evidence session. I invite Pam Gosal to make some opening remarks, for up to five minutes.

**Pam Gosal (West Scotland) (Con):** Good morning. I introduced the Prevention of Domestic Abuse (Scotland) Bill in May 2025, following the usual members' bill process and with the support of the non-Government bills unit.

Growing up, I remember going into my mum's shop in Argyle Street in Glasgow and seeing women crying, bleeding, bruised and very upset. At the time, I did not know what was happening. Later on in life, I realised that they were survivors of domestic abuse. Coming from black and minority ethnic communities, those women would rarely engage with authorities, so the extent of domestic abuse among them was not fully recorded or understood. To this day, I know many survivors who will not come forward because they think that the system is too weak, while the ones who do come forward often do not get the support that they need.

I am passionate about tackling domestic abuse, encouraging victims to come forward, making sure that survivors can trust the system that is in place

to protect and support them and, ultimately, preventing further abuse.

Throughout my journey with the Prevention of Domestic Abuse (Scotland) Bill, I have engaged with a wide range of stakeholders and survivors of domestic abuse. Initial engagement meetings began in 2022. Later that year, the formal consultation took place, and 95 per cent of individual respondents were supportive of the proposed bill. Since 2024, I have held several extremely positive, one-to-one meetings with domestic abuse organisations to discuss the provisions in the bill.

Domestic abuse is a horrific crime. Last year, around 64,000 such incidents were reported to Police Scotland, and an estimated 65 per cent of suspected perpetrators had previously been involved in related incidents. Just yesterday, we found out that there has been a 26 per cent increase in crimes recorded under the Domestic Abuse (Scotland) Act 2018, compared with 2023-2024. Those are shocking figures, and they increase year after year. However, they are not just statistics—they represent real people going through this horrendous crime.

The aim of my bill is to reduce the incidence of domestic abuse and tackle reoffending through a series of measures. Those include preventative measures, rehabilitation measures, increased data collection, long-term monitoring of those who are convicted of domestic abuse and early intervention through education measures.

Part 1 of the bill introduces notification requirements for domestic abuse offenders. They would work similarly to notification requirements for sex offenders, to ensure that domestic abuse offenders can be effectively monitored and subject to monitoring and management through existing multi-agency public protection arrangements, known as MAPPAs. Better tracking, monitoring and management of the risk that is posed by serious domestic abuse offenders will not only tackle reoffending but act as a deterrent, sending the message that domestic abuse will not be tolerated in Scotland.

Liz Shanks, a survivor of domestic abuse who appeared on the BBC programme “Disclosure”, said:

“Pam is putting through a Bill for a domestic abuse register. Those who commit certain domestic abuse offences would be placed on a register, managed by Police Scotland, and would be forced to update the police whenever their circumstances change, meaning the police will be better equipped to keep victims safe. The Bill she’s working on is really key to what we, as survivors, want to see for many reasons.”

Part 2 of the bill requires consideration of whether a person who has been convicted of domestic abuse offences is a suitable candidate to

take part in rehabilitation programmes to prevent reoffending. Provisions would ensure that every key phase of an offender’s passage through the criminal justice system includes an assessment of their suitability for the appropriate rehabilitation services.

Part 3 of the bill places a requirement on Police Scotland, the Crown Office and Procurator Fiscal Service and charities to ask for vital information about victims of domestic abuse, including their age, sex, disability, ethnicity and much more. The domestic abuse statistics that the Scottish Government currently publishes do not include information on victims’ disability or ethnicity, nor is that data collected, but we know that individuals with certain protected characteristics might be more at risk of domestic abuse. My bill seeks to address that gap. Knowing which groups suffer from domestic abuse and engage with services is an important step in preventing domestic abuse. Those provisions received full backing from Scottish Women’s Aid at the consultation stage.

Finally, part 4 of the bill is intended to ensure the provision of domestic abuse education across Scotland as standard. That would ensure that young people grow up mindful of the harm that domestic abuse causes, and it would equip them with the knowledge to identify concerning behaviour throughout their lives.

In response to the consultation on my bill, Victim Support Scotland quoted one young victim, who summed up the impact of domestic abuse education by saying:

“I want to spread the message to others about awareness of domestic abuse, to get more folk to open up about it ... We need to educate children, go into schools, and tell them what domestic abuse is.”

Although I realise that the estimated cost of the bill is substantial, the financial cost to the Scottish public sector of domestic abuse is estimated to be £7 billion over a three-year average period of abuse.

More importantly, victims are being failed. Right now, Police Scotland receives a call about domestic abuse roughly every eight minutes—that rate is far too high. We must do more to tackle this appalling crime, and my bill provides us with a historic opportunity to do so. By adopting the measures that it sets out, Scotland can be a world leader in preventing domestic abuse and take a substantial step towards eradicating violence against women and girls once and for all.

I thank members for listening.

**The Convener:** Thank you for your opening remarks. I start with a pretty general opening question. As I am sure that you will be aware, our committee business is quite bill heavy, and we are minded to take the scrutiny of costs very seriously.

I begin, therefore, with a question on funding. As you acknowledged, the bill, should it be passed, will require a significant level of funding to ensure its implementation, and thereafter to embed it. Specifically, the funding implications around part 1 are significant.

Why do you feel that this bill is the best use of resources—which we know are constrained—for preventing and addressing domestic abuse in Scotland?

**Pam Gosal:** I will start by saying a bit about the financial side. We are talking about a maximum cost of £23 million, which is only 0.5 per cent of the justice budget. In my opening statement, I mentioned that domestic abuse costs the public sector £7 billion over a three-year average period of abuse. We should also not forget, when we talk about domestic abuse in monetary terms, that we are talking about real people. Even one person going through domestic abuse is one too many, and we know that many have lost their lives. The money will be very well spent.

We talk about a figure of £23 million, but that is the highest amount. As we go through the bill, members will see that there are certain things for which we can look at mitigating costs as we go along. You mentioned the costs around part 1 of the bill, but part 1 is essential and important. I have spoken to many survivors—I have spoken to the organisations, too—and not one survivor said to me, “Pam, we don’t need this so-called notification” or register, as one might call it.

Notification is important because right now, to be honest, if I were not a politician, I certainly would not know anything about any disclosure scheme or anything in that respect. I know about that only because I am a politician and I am doing the work. I will describe a scenario that might play out. If I was a survivor and I was experiencing domestic abuse, I would not know to pick up the phone and to look for a disclosure scheme. I would be domestically abused, and the abuse would carry on. Coming from a BAME background, and having friends from other backgrounds, I know that the abuse continues on and on.

Having a lifeline, and knowing that somebody out there—the authorities, whether it is MAPPA or the police—has a little bit more information than I do, might save my life. The notification provisions in part 1 would require that the information has to be provided by the offender. That has never been done before, as far as I know, in any legislation to do with domestic abuse. The offender would have to go into a police station or to a member of police staff to give the information that their circumstances have changed. That could save somebody’s life. I believe, therefore, not only that the bill is a lifeline, but that the notification scheme

would give victims a feeling that there is extra safeguarding, and that there is somebody else out there looking out for them so that they will be notified.

Last but not least, the bill could be a deterrent. Who wants to be on a so-called notification database or register? We know that it could act as a deterrent, in a similar way to the sex offenders register.

I have got all that information from my consultations. I went out to do personal, informal consultations: one in 2024, and then the main consultation; the committee has that information in front of them.

I did not take the decision to introduce the bill at all lightly, convener. I hope that I have answered your questions.

09:45

**The Convener:** I think that I am right in saying that your bill began its journey back in 2022. To what extent have you made sure that the figures that you are looking at on the cost implications are up to date? Secondly, I am interested in hearing what discussions you have had with justice partners with regard to the cost implications that they might face.

**Pam Gosal:** I have spoken to the police—as you know, the police have to stay neutral in the informal consultation. Although people might be positive about the bill, the biggest question is resources and money—I would not sit here and say anything less than that. That is why I introduced the bill and why I am seeking to show the committee why it is much needed.

I will be honest—the figures that came out just yesterday, showing a 26 per cent rise in the use of the Domestic Abuse (Scotland) Act 2018, were shocking. I also mentioned the figure of 64,000 incidents of domestic abuse. The figures are rising every year. The 64,000 figure represents a 3 per cent rise from the previous year. We need to do more, as something is not working and people out there are really suffering. From the figures that were published yesterday, we can see that the majority of them are women.

I will pass over to Agata Maslowska from the NGBU team to say a bit more about the financial side.

**Agata Maslowska (Scottish Parliament):** Under part 1 of the bill, the main cost is in expanding the existing multi-agency public protection arrangements to include the most serious domestic abuse offenders. To estimate those costs, we used the approach that was adopted in an academic study by researchers from the University of Essex who looked at a range of

staff costs to expand MAPPA to meet offender needs.

It is not possible to estimate fully the cohort of domestic abuse offenders, as the Domestic Abuse (Protection) (Scotland) Act 2021 is not yet in force. Our estimate is that just over 3,000 domestic abuse offenders would be added to MAPPA. The financial memorandum provides a range of costs.

On the notification scheme, we provided the estimated cost of criminal proceedings in a case associated with a breach of notification requirements and the estimated total cost of the review of indefinite notification requirements.

**The Convener:** I have a final question before I bring in Liam Kerr. You said that you anticipate that an additional 3,000 domestic abuse offenders would be included in the MAPPA process. Have you taken account of the possibility that some of the individuals might, bearing in mind the existing MAPPA criteria, already be in the process by virtue of their other offending?

**Agata Maslowska:** Yes—we added that caveat in the financial memorandum.

**The Convener:** Before I bring in Liam Kerr, I think that Rona Mackay has a supplementary question.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Yes—it is just a small question on what Agata Maslowska said about the most serious sex offenders.

What criteria are you using for that? What constitutes a serious offender? Is it somebody who has been convicted and sentenced to a certain length of time?

**Charlie Pound (Conservative MSP Group):** With regard to domestic abuse offenders specifically, it would be those who were sentenced to 12 months or more for what is specified as a domestic abuse offence. That means any offence that is aggravated under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016; section 1 offences under the 2018 act; and offences under the 2021 act, if it is ever implemented—it has not been, as yet. There is also provision for specific types of community payback orders under section 227G of the Criminal Procedure (Scotland) Act 1995.

**Rona Mackay:** Basically, it is for sentences of 12 months or more.

**Charlie Pound:** Yes.

**The Convener:** I will now bring in Liam Kerr.

**Liam Kerr (North East Scotland) (Con):** Pam Gosal, on your point that the provisions in your bill would act as a deterrent, I note that you based the notification requirements on those in the Sexual

Offences Act 2003. Some organisations, in their responses to the consultation, have said that there is no evidence that those requirements have had an impact on the behaviour of offenders, and thus your proposals would not reduce or prevent domestic abuse offending. How do you respond to that? Do you have evidence to show that your proposals would have such an impact?

**Pam Gosal:** I have had a good look to see what evidence is out there. Sex offenders are already subject to notification requirements, as you know, and there is significant evidence that they are less likely to reoffend. The latest statistics show that around 8.8 per cent of sex offenders went on to commit another offence, in comparison with 20.5 per cent for those convicted of domestic abuse.

I also highlight another area with regard to recent research on the effectiveness of multi-agency public protection arrangements that was carried out at Anglia Ruskin University. It found that people who receive management under MAPPA are less likely to reoffend than those who do not.

I also had a look at what is happening elsewhere in the world. In 2007, Spain introduced a comprehensive monitoring system in cases of gender violence, and, in 2015, it produced an online questionnaire to which more than 1,000 people responded, which found that 80 per cent of women were satisfied with the functioning of the system.

Although I have mentioned those areas, I note that we in the Scottish Parliament—I do not think that the committee needs reminding of this—are very good at passing world-leading legislation. I am asking for these provisions not because I am copying others but because I believe that we should be the first to introduce them. We were first when we passed legislation on things such as period poverty, among many other issues. This is a chance for the committee, the Scottish Government and MSPs to back the proposals and ensure that we will have world-leading legislation. People will look to us if we have in place notifications for domestic abuse.

**Charlie Pound:** Just for clarification, the statistics on recidivism that Pam Gosal cited are from the Scottish Government's official reoffending statistics. They relate specifically to the 2020-21 cohort in respect of reoffending. The figure of 8.8 per cent for sexual offences is for reoffending within one year, and the same applies for the figure for other offences. The fact that the rate for sexual offences is half the rate—less than half the rate, in fact—for domestic abuse offences is where we derive some of the evidence from.

**Liam Kerr:** Thank you for that—perhaps you could send that data to the committee. As I said, in

the consultation, expert organisations have told us that that evidence is not there, so that would be helpful.

The current situation is that the disclosure scheme for domestic abuse in Scotland gives people the right to ask about the background of their partner and find out whether someone has a history of domestic abuse. It also gives Police Scotland the power to tell people that they might be at risk; they do not even need to ask.

That raises a question. What would the introduction of the notification and monitoring requirements in your bill add to the current landscape?

**Pam Gosal:** That is a good question. I mentioned in my opening statement and in my answer to the convener what happens with the disclosure scheme. It is a good scheme, and my bill would work closely with it and with MAPPA. However, I have spoken to survivors, and I am aware that people who have been domestically abused but do not know about the scheme will not know that they can contact the police in that regard.

Although the police have some—I stress “some”—names of certain sex offenders and more serious offenders, my bill will bring out more extensive knowledge on people who will have to give that information, which the police will hold. That will better protect victims, because, at the moment, they do not know that they can contact anybody. We are making sure that the police contact them, based on the limited information and knowledge that they have. I mentioned earlier that 3,000 offenders would be added to MAPPA. That information will enable the police to act fast. We can save lives out there.

I have been speaking to survivors, and the disclosure scheme has been letting them down. Although, as I said, I respect it and believe that it works, we need that extra layer of protection. Knowledge is key to saving somebody’s life. That is why part 1 of the bill, on notifications, is important. We just cannot let people think that they can rely on saying, “Somebody is going to save my life if I have been domestically abused.” We need more information and more knowledge out there, because the statistics are very high right now.

Charlie Pound might want to add to that.

**Liam Kerr:** Before he does, I note that your answer suggests that any issue with the existing scheme is due to a lack of knowledge and awareness of what is already there. If that is right, surely what is needed is not more legislation that arguably does a similar thing but better knowledge and awareness among people about what to do and where to go if they find themselves in a certain situation.

**Pam Gosal:** Perhaps I did not put that right. When I talk about knowledge, I am not talking about what they should know about the scheme, I am talking about knowledge of the fact that more information is provided to the police about the offender and the fact that that will cover any change of circumstances, whether it is to do with address, name or many other things, which would allow the police to act faster.

For example, if I have been domestically abused, I am going to pick up the phone and call the police to come to me. We know how busy the police are, and they might arrive quickly or they might not. However, if something is flagged up because of the provisions in the bill, and they have more information and knowledge about the offender, they might act faster, and that might just save somebody’s life.

That information is key. It is not just about people not knowing that there is a disclosure scheme; it is about having that layer of protection. We have the disclosure scheme now, so why are the statistics not going down? We need to ask those questions. As parliamentarians, we have to look at why we are in a position in which all that we see are increases. That is why my bill is important.

I will bring in Charlie Pound on that point.

**Charlie Pound:** I will just throw some statistics at you. A previous freedom of information request that I made showed that, in 2021-22, there were 1,959 disclosures under the power to tell scheme, so the roughly 3,000 offenders who would be included on the domestic abuse offenders register would represent a significant increase. There would be more offenders providing more information, and the police could then act on that intelligence to protect victims. That is how we envisage the register working with the existing disclosure scheme.

**Liam Kerr:** I understand. Thank you.

**The Convener:** I will bring in Pauline McNeill, who I think wanted to come in earlier.

**Pauline McNeill (Glasgow) (Lab):** I have a question about which offenders would be caught by the scheme.

Charlie Pound, you explained to Rona Mackay that offenders who had been given a 12-month sentence would be covered. However, is it the case that all those offenders who go through solemn proceedings on indictment would also be covered?

**Charlie Pound:** Yes.

**Pauline McNeill:** So, is it both?

**Charlie Pound:** Both what, sorry?

**Pauline McNeill:** The offenders who would be on the register would be those who were convicted on indictment and those who served—

**Charlie Pound:** Yes.

**Pauline McNeill:** So, there is an “and”. I just wanted to be clear on that; that was all.

**The Convener:** Katy Clark has a question.

**Katy Clark (West Scotland) (Lab):** I want to understand why you have chosen that particular cohort and focused the scope narrowly on the offenders who would require to be subject to notification provisions. Many other perpetrators will have contact with the criminal justice system, be convicted and appear in summary proceedings. Why should those individuals not be covered by the scheme?

10:00

**Pam Gosal:** I will start on that, then pass over to Charlie Pound, who can cover the technical points.

I saw a lot of domestic abuse around me when I was growing up—not in my family, but among other friends and relatives. I have spoken to organisations and survivors, and Dr Marsha Scott from Scottish Women’s Aid—I think it was her; I will correct the record if I am wrong—asked me what happens with the women who have to retaliate to protect themselves and end up being subject to the notification or inclusion on the so-called register. That was also mentioned to me by somebody else.

When I was drafting the bill, I had to consider that and ensure that serious offenders and re-offenders were covered. The bill must take into account the issue of women—I use the word “women” but also put it on the record that the bill covers men and women, male and female—who are in the situation that was described to me. I listened to organisations and made sure that the bill was changed. It started off quite wide, because it was important that everything was in it, but I made sure that I listened to the experts, which is why the focus was narrowed.

**Charlie Pound:** The threshold was chosen after consultation with stakeholders but we are not close-minded about the cohort that is included. We are willing to listen to the committee’s views and those of the various stakeholders who will appear before the committee, because we want to get it right. We are starting with this cohort, based on feedback, but we are willing to listen to any other suggestions.

**Katy Clark:** Thank you.

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** First, I reiterate what the convener

said about how we all want to tackle domestic abuse in the communities that we represent and in our country as a whole. I commend you for undertaking work to try to improve the situation.

Of course, as a committee, our job is to scrutinise the proposed legislation and its potential impact. I am aware that you said in your opening remarks that your consideration of the bill began in 2022, soon after the 2021 election, and the bill was introduced in late 2024. Is that correct?

**Pam Gosal:** It was published in 2025.

**Ben Macpherson:** Yes; early this year. Thank you for correcting me.

There is quite a long time between 2022 and 2025, and that surprises me, if I am honest. I appreciate that a consultation has been done, but how much engagement did you have with the Scottish Government on the issues?

**Pam Gosal:** I know that you are very passionate about this issue, Mr Macpherson. There is also one organisation in the BAME community that we have spoken about, and I know that you know the subject well.

You have said that 2022 to 2025 is a long time, but we are talking about the parliamentary process around bills. I have to thank the non-Government bills unit, which did a lot of work very quickly on this. It was important to me that, at every point between 2022 and 2025, I gave organisations and survivors opportunities to contribute.

Around twice a week, I get a phone call in my office from somebody asking me for help, and I pass them to the correct authorities or charities. People think that I am going to be a lifeline for them, and I hope that I am.

You are absolutely right that the committee is here to scrutinise legislation, and I am here so that you can do so. I am quite open minded today and I will take away all the feedback from committee members. I will also look at what else we can add to the bill when we get to the later stages.

You asked about the kind of engagement that I have carried out. I have done quite a lot, and I had a chance to meet—

**Ben Macpherson:** Have you engaged with the Scottish Government?

**Pam Gosal:** That is what I was going to say—I had a meeting with Angela Constance, and the cabinet secretary—

**Ben Macpherson:** When was that?

**Pam Gosal:** I think that it was last year—I would have to check.

**Ben Macpherson:** That was in 2024. Did you meet the previous justice secretary, Keith Brown?

**Pam Gosal:** At that time, because the bill was just shaping up, there was nothing official, but I spoke to him in the corridor, for example.

**Ben Macpherson:** There was no formal meeting.

**Pam Gosal:** No.

**Charlie Pound:** It was a while ago, so I would have to check, but I think that there might have been something formal with Keith Brown.

**Ben Macpherson:** The reason I ask is that the bill was talked about in that period from 2022 until its publication in 2025. However, during that time, for example, the Victims, Witnesses, and Justice Reform (Scotland) Bill was published and is now at stage 3. It surprises me that your bill was significantly discussed in the public domain and in the media before the proposals had been established. In your discussion of the bill in the parliamentary arena, the media and other public ways, there were many references to a domestic abuse register, but that is not referred to in the bill. If you want effective practical change in the legal system, I am surprised that you have not engaged with the Victims, Witnesses, and Justice Reform (Scotland) Bill and that you have not looked at the part of the Education (Scotland) Bill that is about education as a possible vehicle for change. That would seem like a more practicable way to change the law, rather than spending four years talking about a member's bill before its publication. It perplexes me that you did not do that.

**Pam Gosal:** Mr Macpherson, I have not done nothing. Those three years were crucial for those survivors and organisations.

You did not let me finish speaking about my engagement with the Government, so I will go on with that. I will come back to the committee to give exact details of my meetings—I am sorry that I cannot completely remember what happened during all three years. I am sure that many women—especially those of my age—cannot remember exactly what they did three years ago, but I can tell you that I have been very vocal. I have not just hit newspapers. I have listened to survivors and organisations. In my engagement with the Scottish Government, I lodged written questions, asked questions in the chamber and spoke in debates. I also debated other subject areas, not just those directly to do with domestic abuse, where I could bring in the issue of domestic abuse. For example, I looked at lodging an amendment to the Housing (Scotland) Bill on domestic abuse.

There were many other things that I cannot remember at this moment, but I am happy to give a full account of them to the committee and to you in writing. I have fully engaged all along. Indeed, today, at 11 o'clock, I will meet the Minister for

Victims and Community Safety, Siobhian Brown. I have fully engaged and I respect the Scottish Government and our procedure in the Parliament. I hope that the point has been answered.

**Ben Macpherson:** Just for clarity, I note the amount of engagement that you have had with relevant organisations and individuals. I appreciate that that has been thorough and appropriate engagement. It was engagement with Scottish Government ministers on the proposals in the bill that I was interested in. If you want to follow up on that with the committee, that would be useful.

**Sharon Dowe (South Scotland) (Con):** The Minister for Victims and Community Safety has recently written to the committee to give the Government's views on the bill. In her letter, she states that the proposal requires

"further discussion and engagement with justice partners".

Other comments suggest that the Government might not be supportive of the bill. What is your response to that correspondence?

**Pam Gosal:** Thank you for the question, Ms Dowe. I have the letter from the minister right here. I have read it; please give me a couple of minutes to give my response to it.

The Scottish Government's response to the introduction of my bill was disappointing but not surprising. I strongly contest the minister's claims about the affordability of my proposals. The Scottish Government has already passed, in this parliamentary session, a bill that sets out throughcare standards for prisoners, and part 2 of my bill would strengthen those provisions for domestic abuse offenders throughout the justice system. Indeed, in her letter to the committee, the minister refers to the fact that consideration of rehabilitation programmes can already be passed on to the Parole Board for Scotland when a prisoner is being considered for release. Therefore, my bill does not propose an unprecedented expansion of rehabilitation assessment.

Similarly, part 1 of my bill, on the register, largely replicates an existing system, but it would expand it to domestic abuse offenders. It cannot be the case that a bill that is modelled on legislation that is already operating in Scotland is unaffordable if the Scottish Government already funds that policy. If the Government is questioning the effectiveness of my proposed register, as it appears to be doing in the letter, why has it not sought to repeal the Sexual Offences Act 2003, which has been in effect for the entire 18 years that the Scottish National Party has been in government?

My bill is fully intended to work with existing schemes such as MAPPA and the disclosure

scheme, as I said earlier. In fact, my bill would strengthen those schemes, because it would increase the amount of intelligence that would be available to police officers, thereby allowing them to act to keep victims safe.

On part 3 of the bill, I welcome the fact that the Scottish Government acknowledges that “more work is required” in that area. Although I note that its preference would be to use non-legislative measures to address the problem of a lack of data on domestic abuse in Scotland, the fact remains that the issue has been neglected for far too long. By legislating to guarantee data collection on domestic abuse, we would ensure that the Government took action on the problem.

On part 4, my approach to ensuring that domestic abuse education is provided across Scotland would give schools plenty of opportunity to help to develop standards for such education. Under my bill, local authorities would be required to be consulted, so they would be key partners in delivering on the policy ambition.

Despite the Scottish Government’s scepticism about my proposals, I will make it an offer: last weekend, it was reported that the Government is having to indefinitely postpone the implementation of its flagship Domestic Abuse (Protection) (Scotland) Act 2021 because of drafting errors. That legislation was supposed to protect women but, four years after it was passed, it is protecting no one, because it was so poorly drafted that it cannot legally be implemented. Therefore, I offer the Government the opportunity to use my bill to make the necessary amendments to the 2021 act so that it can be fully implemented, to help to protect victims of domestic abuse. I hope that the Government will consider my offer. As I said, I will be speaking to the minister later this morning.

I hope that that answers your question. I have gone through the whole letter; I recognise everything that the minister said, and I hope that I have responded to it.

**Sharon Dowey:** I will not ask too many questions, but I have one further comment, which is similar to what Liam Kerr said earlier. The minister said:

“there are again opportunities to progress this area through non-legislative measures”.

However, you think that your bill is required. You mentioned the 2021 act, which has not been implemented.

**Pam Gosal:** Yes, I did. I have also mentioned—I am happy to do this again in writing, as well—why each part of the bill requires to be in legislation.

**Rona Mackay:** I want to ask you more about part 2 of the bill on rehabilitation, and about

education and training. On the notifications side, the bill contains what would be a new offence of failing to comply with the notification provisions “without reasonable excuse”. What would a reasonable excuse be?

**Pam Gosal:** I will bring in Charlie Pound on that technical issue.

10:15

**Charlie Pound:** That is modelled on existing legislation—if I am not mistaken, it is modelled on the Sexual Offences Act 2003. In answer to a freedom of information request—this does not exactly correspond to the existing offence—Police Scotland said that there were 647 recorded crimes of

“failure to notify police or provision of false information.”

I stress that the police said in their FOI response that those crimes did not necessarily relate only to the 2003 act. However, the point is that that is an existing provision in law.

**Rona Mackay:** Are you not able to define that for the Prevention of Domestic Abuse (Scotland) Bill?

**Charlie Pound:** There is a definition, which is that an offence will not be committed if the person has a reasonable excuse. That is in connection with particular notification requirements, such as failing to produce a passport or to notify the police on time. There is already such an offence in law, as the information from Police Scotland confirms. The proposed new offence is modelled on existing legislation.

**Rona Mackay:** I will move on to ask about the rehabilitation programme. Pam Gosal, do you think that there is currently adequate provision of domestic abuse programmes—either in prison or in the community—to meet the demand that could arise if your bill were to be passed? I ask that question because it says in one of our papers:

“the requirement for assessment applies to anyone convicted of a domestic abuse offence, regardless of whether this took place before the enforcement of this section of the Bill.”

That would open it up to an awful lot of people. Are you confident that there is adequate provision for the extra people that that would bring into a rehabilitation pathway?

**Pam Gosal:** In relation to rehabilitation, as many members already know, the Scottish Government was meant to roll out the Caledonian system to 32 local authorities. It is 2025, but that has been rolled out to only 21 local authorities, which is not pleasing. On top of that, different systems are being used out there, so not all local authorities will be using the Caledonian system.

However, on the resource side, the Government has pledged that it will roll out that system, so I do not think that there will be what I would call additional need, because that system is already being rolled out. My bill would put in statute a provision that would ensure that that happens.

My bill covers three areas. It deals with what happens when someone is convicted. Mandatory assessment is important in determining whether rehabilitation would be suitable for someone who has been convicted of domestic abuse, which is not the case at the moment. That requirement would apply when someone is convicted, when they are in prison and when they leave prison, when the Parole Board would have to obtain an assessment. At each point that rehabilitation could be provided, my bill would help people by making sure that we have that programme in place.

I have been in this Parliament for four years, and I know how much members talk about helping people rather than punishing them. I think that my bill goes the extra mile to help people by providing not only for education but for the collection of data, rehabilitation and a notification system that would protect victims from serious offenders.

I will hand over to my colleague Charlie Pound to answer your technical question.

**Charlie Pound:** We are confident that there will be capacity in the system if the obligations that are set out in the financial memorandum are fulfilled by the Scottish Government.

**Rona Mackay:** I am finding this a bit confusing. The Caledonian system already exists, but how would your bill fit into that? Are you saying that your bill would introduce additional rehabilitation or are you going to make that part of the Caledonian system?

**Charlie Pound:** It is a mandatory assessment. The Caledonian system could be offered by a court, if the court considered that that was necessary, but the bill is not intended to conflict with the Caledonian system or with any other rehabilitation programme.

**Rona Mackay:** Does that not confuse the picture a bit?

**Charlie Pound:** No, because part 2 of the bill is about offering assessments—rehabilitation assessments in the court process, in prison and through the Parole Board. It would not change any of the current rehabilitation schemes, such as the Caledonian system. There would be no conflict—the bill is about ensuring that an assessment is carried out and that a person can then be referred to a programme such as the Caledonian system.

**Rona Mackay:** Is primary legislation needed for that? Could such a requirement not simply be brought in?

**Charlie Pound:** If we want to mandate assessments for domestic abuse offenders, I believe that legislation is required.

**Rona Mackay:** Okay. I want to move on to training in schools. I think that what you are suggesting is very vague. I am all for early education on the subject in schools, but we need to know who would design the schemes. Would teachers do that, or would you bring in specialists? Also, if such training were to be done properly, it seems to me that the cost would be substantial. Can you say more about who would design it and who would carry it out?

**Pam Gosal:** I will start, and then I will hand over to Agata Maslowska to answer on the cost side.

Education is key. Last week or the week before, I went to a conference at Beira's Place, which was attended by people from Women's Aid and many other organisations and professional bodies. I was shocked by what I learned about what is happening in schools. I was too busy worrying about domestic abuse among older women. That is because I grew up watching ladies who were a little bit older than me, who were experiencing domestic abuse. We all know what is going on in schools today. Coercive control of teens is happening. That horrific crime has spread into our schools, so when I—

**Rona Mackay:** I am sorry to interrupt. Do you know that ASSIST—the advocacy, support, safety, information and services together project—and other organisations go into schools?

**Pam Gosal:** Yes, and I will come on to that.

What we are looking to do with the bill is to put that provision into legislation. It would not affect the equally safe strategy at all; if anything, it would work with that.

As I have said, I have spoken to many local authorities—a few years ago, I spoke to 31 out of the 32 local authorities in relation to local government issues, and I still speak to many of them. Not everybody is delivering the equally safe strategy, and there are gaps in what people are getting. In addition, it is not tailored to domestic abuse.

I am sure that members know that, when we provide education on such issues, we do not do so only to those whom I would describe as younger people, such as secondary school pupils. As is the case with equally safe, which I know that you have asked about, we want to help people to identify that domestic abuse is a crime and that it will not be tolerated in Scotland. We want to get across to people the message that if they engage in coercive behaviour or any sort of domestic abuse, they will be committing a serious crime, and to set

out what will happen to them. We want to educate them about that.

On the other hand—on the softer side—we want to educate young people to recognise when abuse is happening to somebody else and to understand that it is wrong. That is why education is key. I have heard that time after time from many academics; I recently heard an academic in Dundee talk about how education is key.

You asked about who would deliver that education. My bill clearly states that it must not be delivered by the Scottish Government in this building. It must be delivered on the ground, while listening to the partners.

This part of the bill is very important. We want to put domestic abuse education into statute to make sure that it is available and that there is not a postcode lottery, whereby some people get it while others do not, depending on whether the Government has money. If we put it in legislation, it will be there.

It is important that we talk in particular to those organisations that deal with domestic abuse every day. That could include some education establishments—I have made the provision quite wide. There would have to be consultation, collaboration and partnership with other organisations. The Government could not simply create an education programme.

**Rona Mackay:** Are you expecting teachers to provide the education that you are talking about? Have you engaged with any of the teaching agencies?

**Pam Gosal:** No, I am saying that the work should be done in consultation with them. My bill does not say who should provide that education; it sets out that the provision should be in place. I have put it in the bill that there must be consultation. Governments cannot make such decisions in isolation, just as teachers cannot make them alone. We need to get people to work together and to engage in consultation so that no one person makes a decision on how to tailor the programme.

I am not going to say what the programme should be called; I am simply calling it education. I have included that provision in the bill to ensure that it is available for all schools.

**Rona Mackay:** I understand what you are saying, and I agree that education is key, but I am still not clear whether teachers would be carrying it out.

**Pam Gosal:** I have not put that in the provision. I think that I was very clear in saying that there would have to be consultation.

**Rona Mackay:** How can we pass legislation if we do not know such details?

**Charlie Pound:** The provisions in the bill say that the Scottish ministers must produce guidance on and standards for domestic abuse education, but that there must be consultation with charities or other bodies that provide domestic abuse education. For the standards, ministers must consult with education authorities, charities and anyone else that they consider appropriate. The guidance on and standards for domestic abuse education would be produced by the Scottish ministers in consultation, and the bill states that education authorities would have to support and facilitate domestic abuse education.

**Pam Gosal:** Once again, it is important to note that I am simply introducing the bill today. People will have opportunities for input. If you feel that what I am proposing should be delivered in a different way or that the bill should be amended, I am quite open to using the expertise of the committee, and I am open to listening to what everybody says.

I will pass over to Agata Maslowska to deal with the cost issue.

**Agata Maslowska:** On the school—

**The Convener:** We have only four or five minutes left, and a couple of other members want to ask questions, so perhaps you could follow up on that in writing.

**Pam Gosal:** Absolutely.

**Pauline McNeill:** Good morning. I will start with some technical questions, the answers to which should be short.

I just want to be clear. Charlie, you have already said that the provisions relate to those who are convicted on indictment in solemn proceedings and those who receive a 12-month sentence. Am I right that the 12-month period relates to the sentence?

**Charlie Pound:** Yes.

**Pauline McNeill:** So that might not necessarily be jail time.

**Charlie Pound:** No.

**Pauline McNeill:** The crimes that we are talking about would be charged under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 or the Domestic Abuse (Scotland) Act 2018. Is that correct?

**Charlie Pound:** Yes, and they could also be charged under the 2021 act, if it comes in.

**Pauline McNeill:** So we are talking about three acts of Parliament.

**Charlie Pound:** Yes.

**Pauline McNeill:** You mentioned a separate cohort that would be covered by MAPPA. They would be the most serious offenders. How would you define them?

**Charlie Pound:** Anyone who was subject to the notification requirements.

**Pauline McNeill:** Anyone?

**Charlie Pound:** Yes. That is set out in the bill.

**Pauline McNeill:** So they would all be subject to the MAPPA requirements.

Pam, I think that you said that the provision is modelled on the sex offenders register. If you are not able to answer any of these questions, that is fine, but these are the ones that interest me. Have you done any assessment of how effective the sex offenders register has been in improving safety or reducing reoffending?

**Pam Gosal:** To go back to your question about whether my provision was modelled on the sex offenders register, I should say that it was not fully modelled on that. I listened to what survivors out there said that they wanted. The fact is that the onus is on them to contact authorities, when people should know whether someone is a dangerous domestic abuse offender. My bill started from that. I did not look at the 2003 act first; I listened to real-life experience. I also knew that the United Kingdom Government at the time was considering doing something on the issue, too. That is when I started looking into it a little bit more.

In relation to the sex offenders register or, should I say, the Sexual Offences Act 2003, I will pass over to Charlie on the technicalities.

**Charlie Pound:** We point to the early recidivism statistics and the consistently lower numbers of sex offenders who go on to reoffend. There is also the fact that the 2003 act has been in force for roughly 22 years, and it seems to operate well. No one is calling for it to be removed. That would suggest that the current system is working well in relation to sex offenders, which is why we believe that it should be extended to domestic abuse offenders.

**Pauline McNeill:** You said that you think that the sex offenders register has resulted in a reduction in repeat offences—recidivism.

10:30

**Charlie Pound:** The evidence is there that the rate is lower. Obviously, we are not academics, and we cannot draw out a causal effect, but that is what we can see from the evidence.

Pam Gosal submitted written questions to the Scottish Government on a range of topics relating to the bill, for evidence gathering. We are not in Government, however, so we have to rely on those sorts of statistics from the publicly available data that we have.

**Pauline McNeill:** That is fine. I am trying to understand why the bill has been introduced. If it has been modelled on something, we must presume that you think that the model has been effective.

I do not need to put to you the utterly shocking figures on sexual crime in Scotland. They are going up the way, so something is not right. To that extent, we are all on the same page. The question is, what will stop that figure rising? The rise in sexual crime is why the committee is wrestling with issues such as reform of the High Court, tackling delays and so on.

That leads me to the question of how we tackle sexual crime, and the other parts of the bill that Rona Mackay asked you about. How can you be sure that the provisions in the bill on education are the right way to do that? From the discussions that we have had in the Scottish Parliament, it is clear that the broader narrative is about men's violence against women and girls. Something is not right, and I agree that that has to be tackled in schools.

However, I am interested in why you have gone down the path of educating boys about domestic abuse. Let us take the Gareth Southgate lecture as an example. I thought that it was a very good attempt to explain why we have a problem with boys in society with regard to their role models and so on.

First, would you agree that how we tackle the issue of boys and young men is a complex question?

**Pam Gosal:** I do not pretend to be an expert, but I can certainly say that there is a big problem out there. Coming from a BAME background, I am quite open to saying these things. When sons are born, they are put on a pedestal, and when females are born, people are not so happy. That does not happen in every household, but it starts in the house, and education comes into it. I will be honest—what I am trying to do is only part of the solution, but it is a big part.

The issue is to do with what happens as children are growing up. I can write to the committee with what an academic said to me in Dundee; I asked her about this. That academic has done a lot of work on behaviours and how people offend, and she said that education is key. If we tell someone from a young age that something is wrong and explain it to them, that will go in, but that cannot be done just one time—it must be repeated over time.

My proposal is part of the solution, but I am not going to say that I can wave a magic wand. I want parents to be responsible when they bring up their boys. I certainly know about that—I have two boys. When they go out at night, I tell them, “Be careful—don’t you harm anybody and don’t you say anything that hurts anybody.” If more mothers said that to their sons, instead of mothers saying to their daughters, “Take care” and “Be careful”, the world would be a better place.

The education provisions in my bill are only a part, but they are a big part—

**Pauline McNeill:** Can I stop you there? I agree with what you are saying; everyone has a responsibility in this regard. However, I am asking you a specific question. A lot of us have done some work on what we think needs to be done in school, but it is a complex question. If the Government is to support a programme of domestic abuse education in school, it must know what the right programme will be. Do you agree that that is complex?

**Pam Gosal:** I agree that I am at committee and that this is just the start of my bill process, so I am open to any suggestions. If you have suggestions in relation to the education part, I am open to those.

**Pauline McNeill:** Well, I am going to make a suggestion. I hope that you would agree that we need to have a wider discussion. With regard to your bill, you have said that you think that the solution is telling boys that domestic abuse is wrong—

**Pam Gosal:** And also girls. I know that, on some occasions, there can be a minority of cases that involve the other sex.

**Pauline McNeill:** But I am suggesting that—

**The Convener:** I will have to ask you to wind up, because Liam Kerr wants to come in with a final question, and we are running over time a little bit.

**Pauline McNeill:** I will finish on this. Ms Gosal, I hope that you would agree—feel free to disagree—that, rather than being prescriptive and specific about what is required in schools, as you have done in the bill, we perhaps need to have a wider discussion about what would be the right type of educational programme to provide to boys to tackle the issue as they grow up.

**Pam Gosal:** My bill sets out a provision for education. With regard to what that education would look like, I have said that it would be about domestic abuse. On how it would be delivered and what it would look like, it will be important, again, that the right sort of consultation is undertaken with the right authorities—the right people and the experts—to ensure that the provision is

implemented. The onus is on the Scottish Government to ensure that the provision is taken forward—that is why my bill is there. As I said, I am sure that the Scottish Government will be open to consultation in order to shape what that education will look like.

**The Convener:** We have a final question from Liam Kerr.

**Liam Kerr:** On that exact issue, Pauline McNeill has talked about implementation of good, well-meaning schemes. However, I think that we can all agree that the failure to implement the Caledonian scheme—which Rona Mackay asked about—is deeply regrettable. Pam Gosal mentioned earlier that the 2021 act cannot be implemented because it was poorly drafted.

Is there a risk, therefore, that bringing in further legislation in that context that layers on further safeguards and provisions—which are very important—would simply mean that we would have more schemes that, ultimately, would not be brought in fully? That could be more negative than not bringing the bill forward at all.

**Pam Gosal:** I have to disagree with you there. When bringing forward legislation, whether it is a member’s bill or a Scottish Government bill, if we were to pack up and say, “Hold on—this legislation is not right,” we would never bring forward any legislation at all. Right now, there is a big, deep increase in domestic abuse, and we need to do more to tackle that.

I listened to survivors and to organisations before introducing my bill. I take the issue of domestic abuse very seriously, which is why I brought the bill to Parliament—I believe that it is needed. We should not think, “Hold on—there was poor legislation in 2021.” If anything, that should make us see that we should pass good legislation, such as my bill, that will actually make a difference in protecting people.

I do not think for one minute that we should step back in our role as parliamentarians and think, “Hold on—we’re not going to be putting anything through.” It is up to the Scottish Government to answer the question as to why the 2021 act has not been implemented. I am sure that when I see Siobhian Brown, not long from now, I will ask her that question.

We have been elected, and we are in the Scottish Parliament, to make good legislation—I agree with that. However, we should not be scared to make any legislation that will help, because in Scotland we are absolutely amazing in respect of the historic legislation that we have passed in Parliament. We need to say that we have made good legislation as well. I hope that that helps.

**The Convener:** I will have to bring the session to a close. I thank Pam Gosal and colleagues for coming along today. We will have a short suspension to change over witnesses.

10:38

*Meeting suspended.*

10:44

*On resuming—*

## **Prostitution (Offences and Support) (Scotland) Bill: Stage 1**

**The Convener:** Our next agenda item is an evidence session on the Prostitution (Offences and Support) (Scotland) Bill from the member in charge of the bill, Ash Regan. We are also joined by Rachael Hamilton. I welcome Ash Regan to today's meeting. She is accompanied by Maren Schroeder, senior researcher, and Anna MacLeod, parliamentary assistant, who are both from her office.

10:45

The purpose of today's evidence session is to inform the committee's understanding of what the bill proposes. As with the previous session, this is an initial evidence session, and the committee will make a decision at a meeting in September on future evidence taking from other witnesses. I refer members to paper 1 and the letter from the Scottish Government giving its view on the bill. I will allow about 60 minutes for the session.

I invite Ash Regan to make an opening statement, for about five minutes.

**Ash Regan (Edinburgh Eastern) (Alba):** Thank you for the opportunity to speak to the committee and discuss what is in the bill. As is probably evident from who has come with me to support me this morning, I have done this bill by myself, with my staff team. I have not been supported by the non-Government bills unit. You will also know that there is nobody from the legal side of things here, so we will not be able to answer any technical questions on drafting. However, we could take those away and come back to the committee on them. With that said, I move on to my opening remarks.

Prostitution is not a theoretical debate. It is not an abstract discussion about frameworks or personal liberty. It is happening right now in our cities and towns to real women—women who are poor, addicted, traumatised and trafficked. We should not look away from that. Last October, I met a Canadian survivor, Valérie Pelletier, who told me that disassociation is not a work skill, but it is required in prostitution. That is not a job; it is the paid performance of compliance. It demands that women fake arousal, endure unwanted penetration and shut down their pain so that men can forget that they are doing harm.

This is not about sex; this is about male entitlement—the belief that sexual urges deserve infrastructure, tolerance and access to women's

bodies. That belief harms not only the women in prostitution but all women. As Andrea Dworkin said,

“The difference between women in prostitution and all other women ... is merely one of degree. Because as long as some women are for sale, all women are buyable”

and, when women are for sale or buyable, equality is impossible.

The Scottish Government’s equally safe strategy says that prostitution is a form of “commercial sexual exploitation”, and that it has no place in modern Scotland. The Committee on the Elimination of Discrimination against Women urges states to reduce demand, and the Council of Europe says that prostitution is incompatible with gender equality.

Front-line services such as the Encompass Network and Routes Out in Glasgow confirm the harm. They say that it is not a choice; it is survival. However, our laws have not kept up. Prostitution is no longer happening only on street corners and in brothels; it is on smartphones, online and streamlined. Women are sold and reviewed like takeaway meals.

The current law, which covers soliciting, kerb crawling and brothel keeping, targets only yesterday’s industry. Today, exploiters operate behind screens. The victims are still unsupported; they are hidden in plain sight—often we do not see them.

While the harm continues, we face a well-funded, globally connected lobby that markets prostitution as “sex work”. It reframes abuse as empowerment, poverty as consent and violence as a career path, but it never explains whose daughter this is a job for. Should prostitution be in schools’ career advice? Should it be in the Department for Work and Pension’s back-to-work scheme? What does the Health and Safety Executive consider a safe working environment in prostitution? When a punter violates terms during the act, who manages the employment dispute? Those are not rhetorical questions; they are the logical consequences of pretending that commercial sexual exploitation is just another industry and that prostitution is just another job.

The law already knows the truth. In *Smart v HM Advocate* in 1975, the High Court said that a person is not entitled to consent to their own injury. Payment does not make abuse legal. Tolerating abuse is not neutrality—it is complicity. States must never legitimise violence against women.

UK Feminista’s Kat Banyard, who is on the secretariat of Westminster’s all-party parliamentary group on commercial sexual exploitation, said that the definition of a “pimp state” includes those in which Governments

enable and take a cut from the commercial sex industry by licensing brothels operating in plain sight in our capital city or by taxing the owners. Local authorities have to pick up the cost of supporting those who are broken by an industry that commodifies women’s and girls’ bodies.

My bill adopts the Nordic model; it would criminalise the buyer and not those who are exploited; it would give women a statutory right to support to exit the industry; and it says clearly that, in Scotland, sex is not for sale. Sweden, France, Ireland, Norway, Northern Ireland and other countries support that, so why not Scotland? This is not a tidy policy issue. It is the raw reality of being raped for money over and over again.

Scotland already recognises in four other acts that prostitution is harmful. My bill provides the final piece to complete the jigsaw on prostitution law in 2025 by making a clear legal distinction between exploiters and those who are exploited, and by reframing the criminality and shame of commercial sexual exploitation.

**The Convener:** As I said at the outset of our previous session with Pam Gosal, the Criminal Justice Committee regularly considers the issue of tackling violence against women and girls, which we take extremely seriously, as I am sure you know.

I will start with a general opening question, before bringing in Liam Kerr. As you will be aware, the minister said in a letter to the committee that

“There remain significant questions and concerns regarding the measures within the Bill and how they would work in practice, the extent to which they would deliver on the policy intent, and the associated financial implications.”

It is quite a broad question, but could you respond to those comments?

**Ash Regan:** The Scottish Government has a current strategy for prostitution. I am sure that the committee has probably looked at that during the past year or so. My view is that the Scottish Government’s strategy supports the bill’s core aims. As I set out in my opening statement, my bill is about taking further action to close the gap and bring it all together.

The Scottish Government’s equally safe strategy, which is a joint strategy with the Convention of Scottish Local Authorities, recognises prostitution as violence against women. If we recognise prostitution as violence against women, I believe that the onus is on the Parliament or the Government—and, unfortunately, progress on the issue has been too slow—to update the law to reflect the fact that the reality of prostitution has changed, as I set out in my opening statement.

Police Scotland is able to use laws to combat prostitution, and it does. The committee will no doubt be aware of operation begonia. Although that is quite an old operation that has been going for some years now, the Government has reinvigorated it recently, and it is very effective—the law on kerb crawling is effective.

I fully admit that the data on this is sketchy. Most of us around this table are old enough to remember when most prostitution was on the street and was very visible. We still have on-street prostitution, which operation begonia can target—and rightfully does target—but most estimates say that 90 per cent of prostitution is now indoors. My suggestion is that we update the law to give the police the tools that they need to target that, and to send the message that that type of exploitation is not appropriate in Scotland.

I think that you had a further question about support services.

**The Convener:** Yes. It was more about the extent to which the bill would deliver on the policy intent and about cost implications, which I am interested in.

**Ash Regan:** On the policy intent, we recognise that prostitution is violence against women and that prostitution is the market for trafficking. The UK as a state, and Scotland as part of that, has various international legal obligations to reduce prostitution and to make our country hostile to sex traffickers, and we should remember that most trafficking is of women and girls for sexual purposes. People who are trafficked and coerced into prostitution live some of the most degrading existences possible.

I have a very good report here, which I can share with the committee in a moment, about the tactics that are used by pimps against women who are controlled in prostitution and how prostitution amounts to, in the words of Reem Alsalem in her recent research, “degrading treatment”, which is obviously contrary to the women’s human rights. It also constitutes, in many and most cases, actual torture.

We cannot look away from this. I am establishing that there is a problem here. There are something like 6,000 to 8,000 women working in prostitution in Scotland, which is a significant number. We have a really significant problem in Scotland.

The policy approach and legislative framework that I am suggesting to you is not much of a change from the existing law. We already have laws on prostitution and kerb crawling, so we can already arrest sex buyers; the bill would allow us to arrest them in all contexts and not just in public places. It would decriminalise the victim, as we

would now conceptualise them, and would offer them a legal right to support.

The framework is not new. It is most often referred to as the Nordic model, and some countries refer to it as the equality model. It has been used in a number of countries around the world, mostly in Europe but not exclusively, because Canada is one of those countries. The first country to use it, in 1999, was Sweden, which has a lot of data, which I am sure the committee will want to look at to see how the model has worked. Sweden was followed by a number of countries; Northern Ireland, which is obviously part of the UK, has a very similar law, as do France, Ireland and Norway. Quite a lot of countries that are close to us have followed the approach.

In the countries that have taken that policy approach, you can clearly see that the intention has reduced the market for prostitution: in Sweden, on-street prostitution dropped immediately by 40 per cent and has not gone back up, and trafficking inflows into the country are much lower. There is a report with data from more than 150 countries that clearly shows that. Maren Schroeder can come in on that in a minute.

The framework also creates a hostile environment for serious organised crime. It creates a hostile legislative framework for traffickers, which is what we want—we want to disrupt them as much as possible. It also decriminalises those who are selling. Those people are often traumatised and need specialist counselling and support. It is a difficult industry to leave, especially if someone has been trafficked; they might not even know which country they are in, might not speak the language and might not have access to their identity documents, for instance.

We should be looking at this issue. I certainly pursued it when I was in government. When I left, the bill was a year 3 or year 4 bill that the Government was going to pursue, although I admit that that is a few years ago now.

I will ask Maren Schroeder to discuss the costs.

**Maren Schroeder (Office of Ash Regan MSP):** I will first pick up on one point from the Minister for Victims and Community Safety’s letter on the cost of quashing convictions. I want to clarify that the costs that were put into the financial memorandum are based on an estimate that we received from the Scottish Courts and Tribunals Service. It based that on the total number of convictions—approximately 10,500—under section 46 of the Civic Government (Scotland) Act 1982 since the act came into force. We have since had clarification from Police Scotland that only 2,773 records are still in existence, and, therefore, the

cost estimate that we received from the SCTS would most likely be an overestimate.

11:00

In her letter, the minister referred to the Horizon—what was it called? Was it the Horizon Post Office systems bill? Pardon me for getting that wrong.

**Ash Regan:** It was called the Post Office (Horizon System) Offences Act 2024.

**Maren Schroeder:** Yes, that act presented a few difficulties, because the people in question were convicted for a number of offences. Section 46 of the 1982 act is associated with one crime code in the police database and one offence only. There are no victims in the offence, but the women who were treated as the offenders, for the purposes of being interviewed or anything like that, were arrested on the spot on the street and taken to court. Usually, they did not contest the charge.

Often, there is no written judgment for such convictions, which is why we set out that, in quashing the convictions, no review whatsoever would be necessary and that, for the reasons of trauma-informed practice, we would not seek to identify the women and inform them of that; it would not be appropriate, out of the blue, to send women who have successfully exited prostitution a letter informing them that their conviction has been quashed. That is why we believe that the cost estimate in the financial memorandum is reasonable. It is not possible to say whether it is accurate until we get to the actual process.

**The Convener:** You have focused on one specific aspect, but can you provide more detail on the wider cost implications?

**Maren Schroeder:** The wider cost implications are for the new offence. We think that it is reasonable to expect a number of additional cases over and above the current workload from the law on kerb crawling. In the financial memorandum, we set out low, medium and high estimates. I believe that the high estimate expects an additional 150 cases, and the policing costs are based on existing financial memoranda and on data that has come directly from the SCTS on the costs of cases that are being tried in the courts.

It is impossible for us to predict how many cases there would be. We definitely expect that there would be more cases arising from operation begonia than from just the original legislation on kerb crawling—additional cases in which the police would arrest buyers for indoor prostitution offences.

**The Convener:** Do you have those figures to hand?

**Ash Regan:** Do committee members have the financial memorandum in front of them? The table detailing the costs is on page 21. Do you want me to read out the table?

**The Convener:** Yes, that would be helpful—thank you.

**Ash Regan:** There would be recurring and one-off costs. We have estimated the cost to Police Scotland, in relation to additional crimes and cases proceeded with, to be between £33,000 and £100,000. We have estimated the cost to the Crown Office and the SCTS of the cases being brought to be between £84,000 and £218,000. We have also added in the cost of what we consider to be the fairly unlikely event of anyone being sent to prison for this offence—the offence of the purchase of sex—of around £48,000. Similarly, we do not imagine that community payback orders would be used extensively. We imagine that most people would receive a fine, but we have estimated the cost of those to be between £2,200 to £6,600.

The largest cost would be for the support services element, because the bill would make what I would describe as a bold move, which is to create the legal right to support for victims who have been in prostitution. It is fairly difficult to estimate what would be needed in that regard. The bill, as drafted, hands that over to the Government, because I accept that it would be the Government that would either instruct local authorities to provide those services or commission third parties to do that, as it does now.

There are two funds that the Government puts money into at the moment—the victim centred approach fund and the equally safe fund—which amount to more than £60 million. I have had a discussion with the Minister for Victims and Community Safety, and I imagine that it might be possible to refocus some of that funding as a result of the bill, with some of it going to prostitution spending.

The committee will be aware of Routes Out in Glasgow, which is an example of a provider of excellent services to those who are exposed to prostitution. It is funded by Glasgow City Council to the tune of about £400,000. In calculating the amount for the support services provided for in the bill, we had to include—I thought this was slightly odd when we were preparing the documents—that Routes Out funding in our figures, even though the money is already being provided for support services relating to prostitution. We have calculated support services at something between £1.3 million and £2.2 million, depending on how that works out.

As Maren Schroeder said, a number of records, some of which are on paper, might need to be

changed. The SCTS gave us a figure of what it would cost it in administrative time to find, locate and update those records.

**The Convener:** Thank you. I will bring in other members, and I hand over to Liam Kerr.

**Liam Kerr:** Good morning. Ash Regan, I can entirely understand the premise of what your bill seeks to achieve, and I find myself sympathising with an awful lot of what you have said in your set-up.

According to your policy memorandum, your bill will

“reduce the amount of prostitution in Scotland”.

However, that begs a question. What evidence can you provide to the committee that your new offence and the repeal of the existing offence will reduce the number of people who are involved in prostitution?

**Ash Regan:** It would reduce the number of people involved in prostitution. We need to be clear about that from the start. Some people have the idea that, because prostitution will always exist and always has existed, we should not seek to have an appropriate legal or legislative framework to manage it. My view is that, as legislators, we need to look at the international evidence, the harm that is being done to women who are in prostitution and the harm to society, and we need to come up with the best possible option.

This is not a perfect solution—there are no perfect solutions. Other countries have criminalised the buyer through a challenging-demand model. Demand drives the supply. The buyers, 99 per cent of whom are men, demand the service, and the traffickers and the pimps step in to fill that demand. That is what drives the trafficking inflows. We know from the data on buyers that, if buyers know that they will get a criminal record and that what they have done will be made public, most will stop. You reduce the demand by creating that deterrent effect. In the countries that have brought in such a legislative framework, the market for prostitution has contracted. We can see that, and we have data for that. I will ask Maren Schroeder to go into the specifics. We also have international data that shows that the trafficking inflows into a country will also drop. We know that the model works.

It is also about decriminalising the women. I say “women” as a shorthand, because we estimate that 96 per cent of sellers are women. It is not all women; there are men who sell sex as well—I put that on the record—but I say “women” as a shorthand because the majority of sellers are women.

What also seems to happen is that, when the women are decriminalised, they develop a better

relationship with people in law enforcement and are able to work with them. In the countries that adopt that approach, not only do they create crimes around the purchase of sex; it tends to lead to better investigations and investigation results on other crimes that are connected to that, the obvious one being trafficking.

We saw that in France. The statistics there showed that, when France changed the law quite recently—the French law is only a few years old—investigations into other crimes relating to the purchase of sex went up by 54 per cent. When I went to Sweden a few years ago, the Swedish police told me that, too. One of the police officers there, who was in charge of the issue in Stockholm, told me that he had no idea that that would happen once they started to criminalise the sex buyers. He said, “Well, we would go and arrest them, and then we would look in their car and find all these other types of criminality”—I am sure that you can imagine. Moreover, someone who was selling sex gave them very good evidence that led to the arrest of high-profile individuals for other issues.

It creates an environment in which things are all working together towards the ends that we as a society want to see. We do not really want to put these people in prison; we are seeking to create a deterrent effect, so that men who buy sex realise that that is exploitation and stop doing it, and then the market will drop.

I will let Maren Schroeder give us some facts and figures on the international data.

**Liam Kerr:** That data seems crucial to me. If the data exists—

**Ash Regan:** It does.

**Liam Kerr:** Correlation is not causation. However, if you could supply data that shows France bringing in legislation and then having a decline in prostitution, that would be very helpful for the committee.

**Ash Regan:** Sure. I will send that to the committee.

This is a table that we have created, which shows rates of people in prostitution by legislative framework from 2006 to 2014. I will read those out to you. Obviously, countries have different-sized populations, so the rate is per 100,000 people. Sweden’s rates of prostitution per 100,000 are 6.6 to 15.4, and the Republic of Ireland’s rates are 16 to 20. We can contrast those with countries that have a different model, which we can go into later. Germany has a legalisation model and its rates per 100,000 are 185 to 493; in the Netherlands the rate is 147 and in New Zealand it is 183. It could not be starker. I will make a note to circulate the

table to the committee, because the data clearly illustrates what we are discussing.

**Liam Kerr:** Several highly experienced organisations, however, have responded to your consultation and suggested that, if a law such as the one that your bill proposes were to be brought in, it could compromise safety and even increase the risk of violence against those involved. How do you respond to that? Is there at least a possibility that similar legislation has driven practices underground—that prostitution has not decreased but has simply been driven underground where it is not so known about—which could explain the statistics that you have just adduced?

**Ash Regan:** I will start with the point on driving practices underground, because it is quite a prevalent argument that the pro-exploitation lobby uses. What the word “underground” means is never defined. It could mean that prostitution has gone indoors where you cannot see it, or it might mean that it is more unsupervised or more unregulated—those are the definitions that I can think of. However, that is not what the data shows. Prostitution cannot really go underground, because it is an act of purchase, so the buyers and the sellers must connect with each other. Sweden’s national rapporteur on trafficking, Kajsa Wahlberg, said:

“prostitution activities are not and cannot be pushed underground. The profit of traffickers, procurers and other prostitution operators is obviously dependent on that men easily can access women ... If the buyers can find the women ... the police can too.”

11:15

That claim is frequently repeated, but it is not supported by the evidence at all. The most compelling example of what you are talking about is probably what we have seen in France. The claim that the law was in contravention of the human rights of those who were selling and pimping, and that more violence was created by the law, was thoroughly examined by the European Court of Human Rights, and it was rejected in June 2023 in the judgment on *MA and others v France*. The court stated that the applicants had not demonstrated that the contested legislative provisions had had any effect on their situation or had exposed them to an increase in violence or danger. The harms that the opponents to that court case described are real. Women in prostitution are subjected to horrendous and consistent levels of abuse and violence, but those harms are inherent in prostitution and they existed in France before the law. It is not the law that causes the harms; it is prostitution.

Does that answer your question?

**Liam Kerr:** Yes, that is interesting. As I said previously, the more data that you can send the

committee, the better, if that is possible, although I note your remarks earlier about the support that you have.

**Ash Regan:** The example of France and the European Court of Human Rights is so compelling that it is in the policy memorandum—or it should be. We will check that and make sure that, if it is not in there, we follow it up and send it to the committee.

**Liam Kerr:** I am grateful.

**The Convener:** Rona Mackay, I forgot to bring you in for a supplementary to my questions.

**Rona Mackay:** I just wanted to go back to the quashing question. Why did you go down the route of quashing and not pardoning. Is there any particular reason?

**Ash Regan:** It is a good question and, to be honest, we wrestled with it a little bit ourselves. The reason behind the policy intent is that, as you can imagine, as the law stands, women who are selling are often arrested and have convictions for selling sex under soliciting legislation.

I have one friend who has exited prostitution. She has been out a long time now. She entered prostitution when she was 15 and she had 39 convictions by the time she was 17. I probably do not have to explain to the committee that, if you have convictions in this area, it can create a barrier to accessing services, because women often do not want to disclose that they are in prostitution. We often see women in prostitution having their children taken away from them. If you want to exit prostitution, it could have a damaging effect on your employment prospects, whether you are able to get access to housing and a range of other things. Survivors were very clear with me that they wanted not only to be decriminalised but to have any existing convictions for the offence to be quashed or pardoned in some way.

If the committee still has doubts about that, it is borne out by the Casey review report that just came out. I do not know whether any of you have looked at it. It is about the Asian grooming gangs—well, they get called that, but I call them “rape torture gangs”—and it was commissioned by the UK Government. It has 12 recommendations on that particular issue, and the UK Government has accepted those in full. You will know that many of the girls who were groomed into those situations ended up in commercial sexual exploitation, so they were prostituted. Obviously, most of them were young—in many cases, they were below the age of consent—so one of the recommendations is that no one should be criminalised for their own abuse or their own exploitation. That is the policy intent.

How we get to the outcome, I am not so set on. I very much like the idea of an automatic repeal. The reason for that is that, when the records are looked up, there will not be anything on them. The offence will not be listed and then disregarded—it will not be on there at all. If, when they fill in forms, such women are asked whether they have a criminal record, they will be able to legitimately say that they do not, because it will have been removed.

However, there are other ways to get there. There are three quite recent pieces of legislation, the names of which Maren Schroeder will help me to remember. We have based our approach on the Horizon legislation, because we want there to be an automatic repeal, for the reasons that Maren set out. Only one crime code is involved, and there is no need for a case review.

**Rona Mackay:** With the Horizon legislation that you mentioned, the quashing was done so that the complainants could have redress. Is that part of your reasoning for going down that route?

**Ash Regan:** No. We are not suggesting that my bill will provide any redress whatsoever, but I am making the point to the committee that many of the women will have entered prostitution as children or will have been trafficked, and they will have criminal records in relation to their own exploitation. I think that, as a society, we would agree that that is completely unacceptable.

That is my preference for how we should go about it. If the Parliament does not agree, I am perfectly willing to look at other options. For the sake of transparency, I point out that, in her letter, the Minister for Victims and Community Safety said that she did not think that basing our approach on the Horizon legislation was the right way to go, and I think that the Law Society of Scotland might have said the same.

There are a couple of other options. We could do something like what was done in the Miners' Strike (Pardons) (Scotland) Act 2022, or in the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018. There are other ways of doing it.

**Rona Mackay:** There is a huge difference between quashing and pardoning.

**Ash Regan:** Yes.

**Rona Mackay:** I have a tiny additional question. Maren Schroeder gave some cost figures. In the Horizon case, it worked out at about £4,000 per person. What do you estimate that the cost would be, per person, if you went down a different route?

**Ash Regan:** We do not know. We would have to take that away and come back to the committee. However, we suspect that you are right—we suspect that it would be cheaper.

**Ben Macpherson:** I thank Ash Regan and her team for being here today and for all the work that they have put into tackling the issue.

How do you envisage enforcement being undertaken? Earlier, you spoke very powerfully about how existing law has helped to tackle street prostitution, and the challenge that we face in the 21st century with indoor prostitution. I would be interested to hear more about how you think that enforcement would be done.

**Ash Regan:** Absolutely. The committee might want to have a look at Ipswich. The committee will probably be aware that, a few years ago, there was a spate of murders of women working in prostitution in Ipswich. The local community came together and decided on a particular approach in an attempt to get a grip on what was happening. By using existing kerb-crawling laws and working with the police, they made the deterrent effect so strong that they eliminated street prostitution altogether—they simply got rid of it.

There was also a cost saving to that. There is a report that estimates that, for every £1 that was spent on that, the local area saved £2. We believe that a law of the type that I am proposing would eventually—not initially, because there would be set-up costs—result in a saving. We think that the costs would peak in the medium term—about four or five years after the law came into effect. However, after 10 years, once the trafficking and the prostitution market had gone down, the number of people seeking support—it is very expensive for the state to provide that support—would, we expect, have reduced, because that is what we have seen in other countries.

Ipswich is a great example for people to look at. However, you are right. Because of the nature of modern prostitution, the kerb-crawling laws are no use to the police—they have told me that. We have had conversations with the police—in particular, officers who specialise in sexual crimes—and they have expressed their frustration about the fact that, when they go into a premises, they find people who are clearly victims, who are sometimes people who have been trafficked, but they simply have to let the punters walk past them, because they cannot do anything. I sense that the police would like to have additional powers so that they could do something about that.

On policing, the commission on the sex buyer law submitted a report in 2016 to the then all-party parliamentary group on prostitution and the global sex trade entitled “How to implement the Sex Buyer Law in the UK”, which the committee might want to look at. The commission looked at the law that applies in England and Wales. I think that it included a serving police officer and a former police officer. The report looked at the law in Sweden and considered what applicable powers

and structures would be needed in a UK context. It concluded that a

“standard four-step enforcement operation ... would be consistent with existing policing powers.”

I will go through the four steps. First, police officers locate the premises that are used for prostitution. Secondly, they confirm that prostitution is taking place. To do that, they might contact the premises either in person or by phone. That is done covertly in Sweden, but it does not have to be. Thirdly, they observe—they watch the buyers going in. Fourthly, they take action.

Therefore, how the buying of sex would be policed would be very similar to how the police enforce the existing kerb-crawling legislation, which is to go to the area where the offences are taking place, observe and then make arrests.

When I spoke to the Swedish police about their approach, they explained to me that, in Stockholm, they have dedicated police who are working on prostitution. I cannot remember how many of those officers there were—I think that it was three. When they are in the office, they will visit adult websites, where they see adverts for sex. They phone or text the numbers and make an arrangement to purchase sex. After that, they usually get a message back that includes not a full address but an apartment block. The police wait outside the apartment block and then message to say that they are there, which is when they will be given the apartment number. At that point, they can go into the apartment. However, they might not do that; they might observe the sex buyers going past and then they can choose to take action at that point.

A constituent of mine wrote to me—I think that it was just last week—to say that two of the 16 apartments where she lives are being used for prostitution. When she is in the garden with her grandchildren, she watches a steady stream of sex buyers walking up the stairwell.

It is not difficult to find people buying sex. I believe that the police would tell you that, if the bill is passed, they will enforce the new offence in the same way that they do for kerb crawling.

**Ben Macpherson:** I have a few further questions. In the policy memorandum, you cite the different jurisdictions to substantiate what you said earlier, which is helpful for the Parliament.

Liam Kerr asked about the effect of criminalising the purchasing of sex. Will you say a bit more about the effect, as you see it, of decriminalising the sale of sex and any potential effect on enforcement?

**Ash Regan:** My legislation would send a message to society—like other countries that have adopted this approach—to say that, in Scotland,

we recognise who is the exploiter and who is being exploited. We now conceptualise most of the people who are in prostitution as victims. A lot of the women who I have spoken with who have exited prostitution would not think of themselves in those terms. They consider themselves very much to be survivors; that is how they want to refer to themselves.

Consider the testimony that Fiona Broadfoot gave. She came to the launch of the bill a few weeks ago and spoke with the media quite extensively. She was prostituted in Scotland, including in a brothel in Edinburgh. She explained that there were a couple of times when she was on the street with her pimp and the police arrived. They arrested her and took her away. She was a teenager at the time. There is a power imbalance between the exploitees and the exploiters, who are not just the sex buyers but the pimps.

Reem Alsalem has written a number of really good papers on the topic. She has a country report in which she talks about prostitution in the UK and recommends that we move to a challenge-demand model. She has also penned an excellent letter—if the committee has not seen it, I will circulate it. It is brutal. In it, she talks about the reality of prostitution, particularly for those who are trafficked and coerced. She also refers to pimps as being—I cannot remember exactly how she phrases it—the biggest users of torture. That is how bad things are; they are torturing prostitutes.

We should flip that and let the women who are working in the sex trade know that they are decriminalised. I know that some people think that you should not do that—they feel that, if you think that prostitution is wrong, you should criminalise everybody. However, I believe that some of these women are so traumatised by what has happened to them in prostitution that they will never really recover from it. Adding a layer of criminality to that, in my view, is just wrong. Decriminalising them does not lead to an increase in prostitution, because the demand is coming from the buyers. If you decriminalise the sellers, it will not have an impact on the size of the prostitution market.

11:30

**Ben Macpherson:** My first question was about enforcement and the role of the police. With decriminalisation, does the evidence from other jurisdictions point towards any increase in the number of people who sell engaging more with the police and feeling more empowered to speak up? Will you elaborate on that?

**Ash Regan:** Yes. We have seen in other countries, particularly in Sweden, that there is an improved relationship between the sellers and law enforcement. That comes back to what I was

saying earlier about the police getting lots of tips from sellers about sex buyers who had also committed other crimes. That information is documentable.

Maybe we need to have a think about who is in prostitution, because I feel as though you were implying that, if you decriminalised sale, it might attract more people into prostitution.

**Ben Macpherson:** I was not insinuating that.

**Ash Regan:** Okay.

Melissa Farley is very good on this. She would probably be described as the leading researcher on prostitution and its harm. She says that 2 per cent of people who work in prostitution feel fairly happy and can mitigate the risks against them. They feel that they have made the choice to do that.

She then says that 38 per cent of people working in prostitution are likely to be women who have suffered child sex abuse, including incest. They might have come from very chaotic, violent backgrounds, or they might have come through the care system. A lot of women who end up in prostitution have been through the care system, which, to my mind, is a shocking statistic that should give us all pause. Almost a majority of those people have entered prostitution as a child or are under immediate, extreme financial hardship. The rest—60 per cent—are trafficked. The 2 per cent might think that decriminalisation is good. Overall, if you look at the make-up of people who are involved in prostitution, you can see that they are not people whom you would want to criminalise at all.

**Ben Macpherson:** Thank you. I have one final question. You spoke earlier about how you and your team have progressed the preparation of the bill, including the drafting, the evidence and the research. If the bill were to proceed to stage 2, would you be looking to engage with the Government to utilise its facilities for legal drafting, to get advice on competence, and on all the other points that would need to be satisfied in order to produce an implementable and appropriate piece of legislation?

**Ash Regan:** Yes. For those on the committee who do not know, I have been working and researching in this area for probably more than a decade. I was working as a volunteer on the issue before I got elected. When I got elected, I was about to do a member's bill on the same topic in 2018, and then I was made a minister. I was made a minister in this area of law, so I thought, "Okay, that's great—I will be able to do this as a minister". Some of the front-line services that work in this area and I thought that that approach might be more appropriate, because, if you think about it, this piece of legislation directly takes on serious

organised crime. It would be good for the Government, with all the support that it has around it, to do that; however, that is not where we are. I was not able to progress the bill when I was a minister for various reasons; I have done it at the first possible opportunity after leaving Government.

We have been engaging with the Government extensively. I have been meeting the minister who is responsible for this area every couple of months or so. I update her on progress. We meet regularly, and we continue to talk about the bill. We met most recently on Thursday last week. Last week's meeting was to hear from the Government about what issues it might have with the provisions of the bill, and I believe that the minister set that out in her letter to the committee.

Once we get to the point of amendments, the Parliament will provide us with drafting services. If the Government and I agree on amendments, I would be happy for the Government to draft them.

**Ben Macpherson:** Thank you.

**The Convener:** I have another couple of questions. You have spoken about other models, such as those in Sweden and Northern Ireland. The consultation responses indicate that there is a significant amount of support for the bill's provision that would more fully criminalise those who are seeking to buy sex. However, I am aware of the work that has been done on legislation in Northern Ireland which, essentially, did the same thing, in that it criminalised the purchase of sex. The Department of Justice commissioned an official review in 2019 which found that there was

"no evidence that the offence of purchasing sexual services has produced a downward pressure on demand for, or supply of, sexual services".

What is your view on the Northern Ireland experience? How might that shape your thinking about the legislative provision in Scotland?

**Ash Regan:** That is a good question that gets brought up quite a lot. The main takeaway for the committee to remember from Northern Ireland is that, even without strong enforcement, the law has had a measurable deterrent effect. The issue in Northern Ireland is not with the legislative framework, but with the enforcement of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015. I will bring in Maren Schroeder, because she has looked into it extensively.

In 2017 or 2018—I cannot remember what year it was; I will have to check—I went to Northern Ireland when I was preparing the first time around for my member's bill and spoke to the then attorney general, John Larkin. We discussed in a private meeting that, at the point that I visited, they

had not made a single arrest. He admitted to me that there were enforcement challenges.

**Maren Schroeder:** The Department of Justice produced a short paper; it commissioned research into the enforcement of the law which showed that it did not invest enough money in enforcing it. The department also explicitly acknowledged that there was no way to measure demand—there was no before or after data. The conclusions in the research were based on stakeholders' opinions. The problem with the review was that the majority of organisations that the researchers engaged with were opposed to the Nordic model of law that had been adopted, which was not properly acknowledged in the findings. If you are opposed to a law, your assessment will be that the law is not working. The researchers also did not conduct a control for broader trends in online prostitution. That said, they did not recommend repealing the law.

In 2024, a paper was written by independent researchers who re-analysed the data that the Department of Justice-commissioned study had used. They found that there had been a 50 per cent fall in street prostitution, even with the lack of prostitutes—if I may, I will explain that. Recently, I have looked into what buyers say about those laws across the world, by consulting a website that is essentially a sex tourist city guide. On that website, the buyers say that the demand from local buyers in Dublin and Belfast has reduced. As a response, fewer women are available from whom to buy services. Coincidentally, there are city profiles on Edinburgh, Aberdeen, Glasgow and Dundee, which happen to have been written when the so-called Scottish kerb-crawling law—the Prostitution (Public Places) (Scotland) Act 2007—was particularly rigorously enforced, which was around 2011 and 2012. The buyers reflect, in their own words, that the women are simply not available because local buyers are scared of arrest. We know from the buyers that where there is a danger of being arrested—where there is a danger of their anonymity being threatened—they are put off.

**Ash Regan:** So the law works even if you do not enforce it. However, if you rigorously enforce it, as they have done in Sweden and France, it will work extremely well.

**Rona Mackay:** To pick up on the convener's line of questioning, international opinion or evidence conflicts with what you said about the success of the Nordic model.

**The Convener:** Can we have Rona Mackay's microphone on, please?

**Rona Mackay:** It was on, I think. I was probably just leaning away from it.

You will also be aware that a substantial body of sex workers do not agree with your proposals. In fact, recently, there was a delegation outside the Parliament protesting about it. Obviously, there is a difference of views.

In addition, the internet is now used much more widely for the purchase of sex. Some sex workers say that your bill will make them less safe. At the moment, they can screen buyers on the internet. They differentiate between bad clients and good clients. They fear that, if your bill becomes law, they will be left with bad clients who are more likely to abuse them, because those clients do not care about the law and will break the law anyway. There is some fear among sex workers that the bill will make them less safe. I put their case to you for comment. It is not my opinion.

**Ash Regan:** There was a lot in that. I have written down about five different points.

First, I need to be very clear: the international evidence presents an extremely compelling and consistent case that, if you bring in laws in the style of the Nordic model, you will reduce the market for prostitution, which will mean that fewer women are drawn into it to be harmed—we know that it is inherently harmful—and you will reduce the trafficking inflows to your country.

Doing so will not make prostitution safe. No law can do that, because prostitution is not safe. On the data that we have on that, a US study says that those who work in prostitution are 18 times more likely to be murdered than the general population. Prostitution is just inherently harmful. I think that I answered that question using the French example about the safety level. Nothing about the bill will make anybody less safe than they are now. That covers the evidence.

When it comes to the internet, you are right. A few years ago—more than a few years; a few decades ago—it was all about on-street prostitution. The police in Scotland knew where the red-light districts were. They could go there and, periodically, make arrests or whatever. If you were a pimp running several exploited persons, it was fairly high risk; you had to wait for buyers to come along, then you or they might get arrested.

Now, everything is so anonymous that pimps can run hundreds of adverts at very little cost and with no possibility of their arrest. That situation has also increased the number of clients that a prostituted person can see in one day. It makes the whole transaction very low risk to the pimps and much more lucrative. You are right: it has created that perfect storm, if you like.

To go back to the safety comment, there is a myth that, somehow, out there, there is a "good" sex buyer. Good men do not buy sex. That is a myth. Just a couple of weeks ago, I was reading

about the Emma Caldwell case—about which the committee will, no doubt, be aware—which is going to inquiry. One of the women who worked on the street in prostitution alongside Emma said that she had seen that buyer many times. There are often examples of buyers who behave normally and are not violent and abusive during one visit but become violent and abusive on a different visit.

Some people talk about the idea of screening time, which would allow you to check out who the buyers are, but I would say that the reality does not quite meet up with what they are suggesting. We know that buyers routinely use fake names, burner phones and encryption apps—they do not want to be caught or to have to give out their full identity. The reality is that there is not a lot of screening time.

11:45

I have also spoken to women who have worked in Edinburgh brothels, and they told me that a buyer will appear and go to one of the people who is working in that brothel at that time. Those people do not have an ability to refuse the client. Despite this idea about screening, there is no screening. The punters arrive, and somebody will see them.

A lot of people here work on criminal justice in relation to violence against women, and we know that, in other settings, it can be very difficult to assess which men are going to be a problem, because they do not have “dangerous man” stamped across their forehead. We use risk assessment tools and so on. We have single-sex spaces for that purpose, so that we can, quite rightly, keep vulnerable women safe in some circumstances. Even trained professionals will struggle to identify a risky man. I do not think that there is a possibility to screen and to try to identify a good punter in a system that is so inherently dangerous.

I think that I have answered the questions. Were there any points that I did not cover?

**Rona Mackay:** I will raise one final wee thing: one sex worker said that she fears that the proposals will make her less safe, and she does not want her body to be seen as a crime scene. You can develop that way of thinking if you are involved in that trade.

**Ash Regan:** People who work in prostitution would not have to give evidence or have any involvement in this whatsoever. They would be completely decriminalised, which is not the case now, and they would have a legal right to access support. I believe that there is a lot in this legislation that would be beneficial to people who work in prostitution.

I will pick up on the language that you used. I want to make committee members aware, if they are not already—I suspect that some will be very aware—that the term “sex work” is not neutral language. Many of the survivors who I have spoken to are very distressed about that type of language and see it as glossing over the reality of what prostitution is really about and what it has done to them. They would not use that term at all. I believe that the term is being used to legitimise prostitution and to gloss over the harms that might be involved in it. We would not use it; we would always use terms such as “commercial sexual exploitation”, “prostituted people”, “women exploited in prostitution” and, for those who have exited, “survivors of prostitution”, as they often want to call themselves.

**The Convener:** Liam Kerr has a question, following which I will bring in Rachael Hamilton.

**Liam Kerr:** Ash Regan, I completely understand the point that you made in response to Rona Mackay’s question much earlier in the session about the quashing of convictions, which is dealt with in sections 4 and 5, but there is a lot of writing from a legal perspective around *lex temporis*, which means that the law at the time of the offence should govern the legality. For me, the logical progression of that would mean that quashing convictions retrospectively could undermine legal certainty, authority and trust in the legal system and that it could undermine the law’s neutrality and make it more of a moral judgment. How do you respond to that challenge to sections 4 and 5?

**Ash Regan:** That is a fair comment. As I said to the committee, we have wrestled over that area. I have set out my preferred approach, which may not end up being the committee’s or the Parliament’s preferred approach. I chose it because I believe that, in relation to some laws that have been in place for a very long time and in different circumstances, we now have updated ways of thinking about things and conceptualising exploiters and the exploited.

To me, the approach that I have set out seems like the most straightforward way to achieve the policy intent. However, I accept that there are other ways of going about that, and I am open to further discussion on whether it might be better to go down the route that has been taken in other recent pieces of legislation, such as the Miners’ Strike (Pardons) (Scotland) Act 2022 or the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018.

We will go away and do a bit more research and work on that area. We will speak to some of the stakeholders about that part of the bill in more detail. I agree with you that there is a discussion to be had there.

**Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con):** Thank you for giving evidence today; it is very helpful.

We recently had an informal chat and you said that the proposals for the bill would tackle sexual exploitation and human trafficking, as we have discussed today. Your real concern about that shone through to me. Your bill proposes to reduce demand, but I cannot see any evidence that the provisions in the bill will break the criminal supply chain. Can you talk about any data that you have on the number of people who are being trafficked and forced into exploitation?

**Ash Regan:** It is quite difficult. Data in this area is patchy. The best data that we have comes from the Encompass Network's snapshots. It spoke to 291 women who were working in prostitution. Maren Schroeder will remind me what the figure was for those who had been trafficked—was it 80 or 90?

**Maren Schroeder:** It was about 90.

**Ash Regan:** Yes. About 90 women were trafficked, which is about one third of the women whom Encompass spoke to. I would say that, as the Government has recognised in its reports, the average trafficking victim probably comes from eastern Europe, while Nigeria and Vietnam tend to be up there among the top source countries.

Women who have been trafficked and are under the control of third parties probably do not speak any English. They are constantly surveilled. They are held in apartments, and the business model involves moving them around the country. They might be in Glasgow for four weeks, then the person who is controlling them will put out new adverts in Aberdeen saying, "New in town!" and move the women there for a few weeks, then they will move them somewhere else. The buyers require "fresh meat", so the women are moved around constantly.

My view is that that figure of one third of the sample underrepresents the full scale of trafficking, because that type of victim never engages with services. No one ever talks to them about their health or their safety. They never come into contact with the police, because they are surveilled all the time and kept in confined and constrained environments. I believe that we are very much underestimating the figure.

We have wiretap evidence from Sweden of traffickers discussing the countries that they want to go to. They can be heard saying, "Do not bother with Sweden; it is too difficult there." Traffickers are only interested in money and the most lucrative, lowest-risk destinations, which is where they are at least risk of being detected, interrupted, arrested and convicted. They will just not bother with anywhere that they think will be too

much trouble. The international evidence consistently shows lower flows of trafficked people into countries that have the proposed model for addressing prostitution—I gave you some stats about that earlier.

Let us consider the example of Germany—Maren Schroeder is German, which has been helpful. The committee will be aware that Germany has pursued a different and opposite approach to prostitution. It started off in 2002 with the decriminalisation model, but only a few years later it realised that that was an absolute disaster for people who are working there. It had not affected trafficking. In fact, trafficking and exploitation were worse than before. It was a minefield of organised crime.

The prostitution market doubled after the legislative model was changed. Prior to 2002, about 90 per cent of the women who were working in prostitution in Germany were German. Now 80 to 90 per cent of the people who are working in prostitution in Germany are of foreign extraction, so we can assume that they have been trafficked. We think that about 80 per cent of them have been trafficked. Despite the fact that it was expected that the market would be regulated and unionised, and the women would be protected, the murder rate became, quite frankly, astronomical.

Germany has since gone the other way, moving to a more regulatory model.

**Rachael Hamilton:** I appreciate your comment about the situation regarding Germany's decriminalisation model, but that is a slightly different case. I believe that Ireland's model is probably more similar to what you are proposing, and I note that Ireland has not seen a reduction in trafficking, and I am very concerned that, if we do not address the core issues that drive people into sexual exploitation, such as addiction, poverty, issues with immigration status and the organised crime networks that abuse women, your bill will not achieve what you want it to.

**Ash Regan:** It will, because all the international evidence sets out a very clear and compelling case. The international evidence shows that, if you pass the bill and enforce it appropriately, you will see a reduction in the influx of trafficked people. We know that that is the case.

Ireland has issues with enforcement. Maren Schroeder has found the correct page in the briefing, so she can give us more detail on that. The issue is not the legislative framework, so the situation is exactly the same as what we have seen in Northern Ireland, which we discussed with the convener. The legislation in Ireland is having an effect, but it is not having as much of an effect as it would do if it were rigorously enforced.

To come back to the statistics that I gave you earlier about the make-up of the people who are in prostitution, I note that 60 per cent do not choose it; they are trafficked. They do not decide to traffic themselves on to a boat to Italy or other parts of Europe; they are sold or coerced into being trafficked. In some cases, they are forcibly taken from their home countries, stuck in the back of a transport vehicle and brought here to service the demand.

**Rachael Hamilton:** I am aware of the time, but I have a final question. How will exploited and trafficked women be able to access healthcare, for example, through the statutory right to assistance and support that you have set out?

**Ash Regan:** The committee will know about the national referral mechanism, which is set out in UK Government legislation. The women will have access to that and to a temporary recovery and reflection period, during which they are protected from deportation. That period normally only lasts for 30 days, but, in practice, it can often last up to 12 months, until they get the conclusive grounds decision. In that time, they are entitled to things such as safe accommodation, healthcare, legal advice and other support, but they still have to pursue the immigration route if they want to stay in the country.

My bill is part of a suite of support that is offered to victims, but it would not have any impact whatsoever on how the support is set out.

**Rachael Hamilton:** You have not included that in the bill's cost summary. Is that because it is up to the UK Government to fund it?

**Ash Regan:** Yes, although it is the Scottish Government that allocates funding to the trafficking awareness-raising alliance project Scotland. Is that funding shown in our figures, Maren?

**Maren Schroeder:** Yes.

**Ash Regan:** The Scottish Government funds TARA Scotland quite extensively in order to work with trafficking victims, so that money is accounted for.

**Maren Schroeder:** I want to follow up on the evidence that shows that demand reduction models generally decrease trafficking inflows. There have been two large-scale studies: one, published in 2013, looked at evidence from 150 countries; and the other, from 2016, looked at trafficking inflows in the European Union. Both studies confirmed that there are significant differences in the size of trafficking inflows into countries that have adopted the Nordic model.

We can say very confidently that the model has worked in Sweden. Within two decades of adopting a Nordic model law, Sweden declared that its market was dead. It is no longer a

destination country for traffickers, and the explanation is simple: trafficking is all about profit, and, where no profit is to be made, trafficking stops. More interesting is France, which only adopted its current approach nine years ago. France has vigorously enforced the law: its criminal investigations into pimping and trafficking rose by 54 per cent. It seized millions of euros from exploiters and has reported a reduction in trafficking.

**The Convener:** I have to bring the session to a close, so I thank Ash Regan and her staff for joining us this morning. It has been a helpful session.

We will suspend for a couple of minutes to allow our witnesses to depart.

12:00

*Meeting suspended.*

12:01

*On resuming—*

## **Fatal Accident Inquiries and Deaths in Custody**

**The Convener:** Our next agenda item invites us to consider three letters from the Cabinet Secretary for Justice and Home Affairs that relate to fatal accident inquiries and deaths in custody. I refer members to paper 4.

One letter is addressed to the Equalities, Human Rights and Civil Justice Committee, which the Criminal Justice Committee is copied into for information, about the announcement of a chair who will lead an independent review of the fatal accident inquiry system when dealing with deaths in custody. The other two letters, which are addressed directly to the Criminal Justice Committee, relate to wider reforms around deaths in custody.

I invite members to make any comments on the letters.

As there are no comments, are members happy to note the letters' contents, which have been published online?

**Members** *indicated agreement.*

**The Convener:** This is our last meeting before the summer recess, so, before I close the public session, I wish everyone an enjoyable and relaxing summer break. We move into private session.

12:02

*Meeting continued in private until 12:48.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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