

### Briefing 1

- As one of the steps to harness lessons from the Covid pandemic, the Scottish Government is committed to reviewing the impact of Covid on the Scottish statute book.
- The consultation proposes making permanent, or to retain for an extended period, a range of justice related measures from the emergency Coronavirus Acts that have evidentially been found beneficial as measures during the COVID pandemic.
- The Government wants to remove measures no longer needed in order to respond to the pandemic whilst keeping those where there is demonstrable benefit to the people of Scotland.
- The consultation includes proposals to respond to the impact of Covid in the justice system specifically, where backlogs have unavoidably built up.
- Ken Dalling, President of the Law Society of Scotland, said: "We welcome this consultation, which will give the Law Society as well as other interested organisations and individuals the opportunity to consider the impact of the policy changes brought in to respond to the pandemic. As public health restrictions are lifting it is important to examine exactly what is in place and to consider where there are longer term benefits in continuing as we are, where changes are no longer needed, and where there should be additional measures to help support this next phase of recovery. The Law Society looks forward to considering and responding to the consultation in detail in the coming weeks.'

### Briefing 2

- We have been working hard to mitigate the impact of the Covid pandemic – with most civil work being dealt with online or virtually and the establishment of innovations such as remote jury centres in cinemas for the most serious criminal trials.
- We are giving serious consideration to the recommendations of Lady Dorrian's independent review of the management of sexual offence cases.
- The number of prosecutions for rape and attempted rape rose over the past decade from 80 in 2010-11 to 300 in 2019-20; And convictions increased from 36 to 130.
- Our manifesto contained a range of commitments to further improve victims' experience of the justice system, including creating a Victims Commissioner to provide an independent voice for victims. We will engage victims and support organisations on the development of the role.
- We will review the provision of victim services as part of our work to develop a more victim-centred approach, including reviewing the Victim Notification Scheme and enabling more victims to tell the court how crime has impacted on them personally.
- This Government has strengthened the Victim Notification Scheme, giving victims of crime – and in certain circumstances their close relatives – greater rights to information about the status of an offender.
- Victims and their families who are eligible to join the Victim Notification Scheme are given guidance on what is involved, the type of information they will receive and when they will be able to make representations about an offender's release.
- Victims are able to make an informed decision as to whether they wish to sign up to the Scheme, and can do so at any time. Some victims may choose not to do so.
- We legislated to make more victims eligible from 2014 – extending the criteria from prison sentences of four years or more to those involving more than 18 months imprisonment.
- And in 2015 we extended the right to receive certain information to victims of offenders sentenced to less than 18 months.
- We have committed to bringing all relevant partners together to review the Victim Notification Scheme and determine where further improvements could be made.

### Briefing 3

- The Scottish Government recognises the importance of protecting the anonymity of all people who report sexual crimes and value the cross judicial review group's recommendation in this area.
- As well as being contained in Lady Dorrian's recent report, it is a manifesto commitment to change the law in this area.
- We are committed to giving the report and its recommendations careful consideration as we look to build on actions already taken by the Scottish Government to improve the support provided to participants in the criminal justice system.
- We recognise there is a growing body of consensus towards enshrining anonymity rights for complainers in sexual offence cases, particularly with the emergence of new media.

- The Greens, Conservatives and Liberal Democrats all include similar commitments around anonymity in their manifestos.

#### **Briefing 4**

- We have set up an Independent Working Group, chaired by Baroness Helena Kennedy QC, to specifically look at Misogyny in Scotland and explore the following questions:
  - Is there a gap in the criminal law that should be filled by a specific offence tackling misogynistic behaviour?
  - Should the characteristic of 'sex' should be added to the hate crime framework?
- We have committed to acting swiftly on this report, and to bring forward secondary legislation if there is a recommendation to add 'sex', as a protected characteristic, to the hate crime framework, within a month of receiving the final report.
- In addition, within the first 100 days of forming a new government we allocated £5M to violence against women services. The funding will go to rape crisis centres and domestic abuse services to cut waiting lists, helping to ensure those affected can access the support they need more quickly.
- It will comprise approximately £4.5 million to be split between Scottish Women's Aid and Rape Crisis Scotland, and a total of £500,000 for 12 other specialist support services and organisations.
- Throughout the coronavirus pandemic, it has been our priority to ensure that all victims of gender based violence are aware that services remain open so they can access the help they need to keep them safe from harm.
- We remain absolutely committed to working with partners across the justice system to ensure that all victims of gender based violence are kept safe and receive the most appropriate level of support.
- Absolutely no one should have to suffer abuse. We have continued to fund a range of services to support both male and female victims of domestic abuse and rape and sexual assault.

#### **Briefing 5**

- Recorded crime remains at one of the lowest levels seen since 1974, and is down 41% since 2006-07.
- The Scottish Crime and Justice Survey shows a 46% fall between 2008-09 and 2019-20 in crimes experienced by adults in Scotland.
- Recorded crime has fallen across all local authorities since 2006-07, including in Glasgow (down 43%), Edinburgh (down 37%), and Aberdeen (down 51%).
- Surveys of the population show adults in Scotland were less likely to experience crime in 2019-20 than those living in England & Wales.
- An estimated 11.9% of adults experienced at least one property or violent crime in 2019-20 (compared to 13.3% in England & Wales).

#### **Briefing 6**

- Including additional investment of £550,000 per annum to bolster existing provision for supervised bail as an alternative to the use of remand.
- This funding is intended to double capacity for bail supervision services – and we saw a 40% increase in uptake of bail supervision in 2019/20.
- We are updating national guidance on bail supervision to support the consistent establishment and delivery of effective bail supervision schemes across Scotland. This will be published later this year.
- We are working with justice partners to ensure operational readiness for the implementation of electronically monitored as part of bail across Scotland.
- This is due to commence later in the year – as a way of continuing to reduce the use of remand by providing a community based alternative.
- Individual decisions on remand or bail will still be for the independent judiciary but electronically monitored as part of bail will be a new capability to consider for cases on the cusp of remand or bail.
- It will provide an ability to monitor special conditions of bail if Sheriffs deem it appropriate.
- We have increased funding for alternatives to remand. In addition to the £117m invested in community justice services each year, we have provided a further £550k to incentivise bail supervision services. This overall funding includes £1.5m p.a. specifically for bail support.

- Everyone on remand has access to healthcare from the NHS- including both physical and mental health support as well as access to treatment and support for substance misuse and addiction issues.
- This is supplemented by SPS support, which includes an individual assessment of need so that the appropriate support can be put in place for people during their time in custody.

### **Briefing 7**

- The Scottish Prison Service monitors the contract under which HMP Addiewell operates.
- The Scottish Prison Service has deployed a team to the establishment and will ascertain what if any action is required regarding the issues raised in recent media.
- We consider that all prisons should be owned and managed by the public sector.
- Our prison estate holds increasingly complex and challenging populations. We recognise the importance of providing a safe and secure environment for those in custody and those who work in our prisons.
- SPS have been investing in security. A comprehensive range of robust security measures are in place to prevent the introduction of contraband entering our prisons. Rapiscan machines, which specifically assist in detecting substances which may have been concealed in items of mail and personal property, are now in use in every prison. These machines have already proved successful in reducing the volume of contaminated paper entering prisons
- SPS staff have been made aware of the key methods used in attempts to introduce illicit substances and staff are encouraged to focus on these whilst undertaking their duties. SPS staff also carry out regular searches of prisoners, staff and visitors
- Intelligence and drug finds suggest that the current drug use in prisons also involve prescription drugs.
- Like psychoactive substances, prescription drugs cannot be tested for using the current drug screen urine tests or Mandatory Drug Tests (MDT).
- Testing by Dundee University has found that Rapiscan equipment is particularly effective in detecting the presence of psychoactive substances and other substances.
- Work is ongoing with Rapiscan to ensure that when new strains of psychoactive substances are detected, then the machines can be updated to ensure they continue to be effective in drug identification.
- The Scottish Government is delivering a comprehensive health and social care needs assessment of Scotland's prison population looking at different domains of need: social care, substance use, mental health and physical health.

### **Briefing 8**

- All those aged 16 and over in custody are being offered covid-19 vaccination by Health Boards in line with when they would be offered it in the community.
- Consistent with the wider community, vaccination deployment by Health Boards in the prison setting has followed JCVI age categories.
- All prison staff have been offered the vaccination in their communities consistent with age and other priority categories.
- The provision of virtual visits and mobile phones have been vital in maintaining family contacting and reducing the detrimental impact of restrictions on visiting on families.
- Authorised mobile phones are now in use in all establishments, with the exception of HMP Kilmarnock who have instead implemented an in-cell telephony option, which provides similar functionality in enabling contact with family and friends.
- The restrictions on the phones are similar to those on the existing landline system and their use will be continually monitored.
- The use of these new methods of contact will continue to provide support to prisoners throughout the pandemic and are vital to ensure contact during local resurgence of the virus.
- Fife College are now delivering education services across all SPS sites in line with local risk assessments and regime requirements and all indoor gymnasiums and exercise areas are open and operating to appropriate restrictions.
- The roll out of authorised mobile phones and virtual visits was welcomed by HM Chief Inspector of Prisons in her most recent annual report. QUOTE: "I am delighted to see the introduction of in-cell telephony and virtual visits coming to fruition, which provides much needed alternative family contact capability. This is a step forward in Scotland's enlightened approach to penology." (page 35).

- The wellbeing, safety and human rights of all those who live in our prisons has been and will remain a priority for the Scottish Government and the prison service for the duration of this pandemic and beyond.
- Independent and robust scrutiny and monitoring of conditions and treatment in our prisons has been maintained during the pandemic through a remote monitoring framework and on-site liaison visits.
- The HMCIPS Remote monitoring and liaison visit inspection frameworks are grounded in human rights principles. These ensure that HMCIPS fulfils its obligations under OPCAT and that independent scrutiny continues into the treatment and conditions for prisoners throughout the pandemic.
- The frameworks are also consistent with the Council of Europe's Committee for the Statement of Principles for COVID-19 in places of detention and WHO guidance on scrutiny.
- Inspection activity has been increased during the pandemic with liaison visit inspections being undertaken three-weekly as opposed to 4 per annum. All liaison visits reports are published on the Inspectorate's website.
- On-site inspection liaison visits were temporarily paused on 5 January due to national restrictions but independent remote monitoring remained in place and a blended model that includes some on-site inspection liaison visits was adopted in February.
- The Inspectorate's full inspection regime is expected to resume in October.
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### **Briefing 9**

- This investment has been further supported by an additional £4m in April 2020, specifically to support diversion from prosecution, bail supervision, and structured deferred sentences.
- As part of our commitment to explore legislative options to reduce the use of imprisonment, we are considering looking at how the legislative framework for bail decisions could be changed to increase the focus on public safety.
- This will be an open and inclusive process where views offered can help inform whether reform should be progressed and if so, how best that can be done.

### **Briefing 10**

- Improvement works within HMP Barlinnie are progressing, including upgrades to the prisoner healthcare facilities and reception area. A contractor was appointed in November 2020 and work commenced in March 2021.
- Procurement activity is underway for HMP Highland at the chosen site at Inverness Retail and Business Park.
- Construction of the Women's National Facility (WNF) and the two Community Custodial Units in Glasgow and Dundee is underway.
- The Inspectorate found HMP Greenock was positive in its response to the pandemic with strong communication between prisoners and staff and that the health and safety of those who live and work there is apparent.
- The prison service responded swiftly to the infrastructure issues identified during the liaison visit in March. This included significant roof repair work and internal refurbishment to address water damage. Further maintenance is being taken forward.

## **Briefing 11**

- Action 15 of our Mental Health Strategy outlines the Government's commitment to funding 800 additional mental health workers in key settings, including police station custody suites and to our prisons, ensuring that local provision and support is at the heart of our plans.
- We have made over £51 million available to date since 2018-19 to deliver Action 15, and we will continue to invest in 2021-22 as necessary to ensure we meet the commitment.
- As at 1 January 2021, 559.64 whole time equivalent (WTE) mental health roles have been filled through Action 15 of the Mental Health Strategy. This includes 41.26 WTE staff located within prisons.
- The Scottish Government takes these issues very seriously and my predecessor commissioned two independent reviews to make improvements to the provision of mental health support for young people in custody and to improve transparency in the handling of deaths across the prison estate.
- On 24 March 2021, the former Cabinet Secretary for Justice gave a comprehensive update of progress in response to the recommendations of the Expert Review of Mental Health to Parliamentary Committees, HM Chief Inspector of Prisons for Scotland and also informed bereaved families.
- HM Chief Inspector of prisons has recently written to me indicating a pleasing number of areas of progress following the Review.
- The Scottish Prison Service published a revised vision for young people in March 2021, and is piloting a new self-harm policy, enhanced training in trauma informed practices in working with young people and is developing a new health and wellbeing strategy for people in custody for issue later this year.
- NHS Forth Valley appointed additional healthcare staff, including mental health nurses and occupational therapy staff. Clinical support and leadership have also been strengthened to support the healthcare team.
- Many people in custody have complex needs and our frontline prison officers and NHS staff work hard every day to support people in custody, including those who use challenging behaviours as a means to communicate their distress.
- We know that people in custody present higher levels of risk and vulnerability than the general population as a whole and often have complex mental health needs.
- The Scottish Government takes seriously the responsibility to ensure prisoners with mental health issues are appropriately supported, treated and cared for, while ensuring their rights are being maintained.
- Our Mental Health Transition & Recovery Plan published in October 2020 made clear our commitment to continue to work with partners to seek better support for those with mental ill health within the criminal justice system, including prisons.
- Furthermore, the Scottish Prison Service are currently working in partnership with mental health experts to co-produce a revised mental health strategy for those in custody. A first draft is expected later this year.
- The Scottish Prison Service has developed self-harm guidance and bespoke training is being developed in partnership with NHS and rolled out across the estate.
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- SPS re-issued revised Talk To Me Guidance to all staff to make clearer the circumstances in which a risk assessment and / or health care assessment should be carried out and these remain in place throughout the pandemic.
- Everyone entering prison is assessed for their risk of suicide by a prison officer and, if there are concerns, a healthcare professional.
- If a person is deemed to be at risk, an immediate care plan is put in place that sets out issues such as appropriate accommodation and a checking schedule.

## **Briefing 12**

- Over the past decade, the average number of reconviction per offender has decreased by 23%, from 0.60 in 2008-09, to 0.46 in 2017-18. The reconviction rate has decreased by 5.2 percentage points in the same period from 31.5% to 26.3%.
- Evidence shows that individuals released from a custodial sentence of 12 months or less are reconvicted nearly twice as often as those given a Community Payback Order.
- [QUOTE] “If you think about the justice system like an infection, once you get infected once, it can become a chronic and life-limiting condition. Get infected again, and again, and again. So, getting people out at the earliest point in time, if that’s appropriate, is the right thing to do.” Karyn McCluskey, Community Justice Scotland – 1 June.
- Scottish Budget for 2021/22 ensures at least £117 million is invested in community justice services and specialist third sector services.
- To support pandemic recovery work, an additional £50 million over 2021-22 has been allocated both to establish additional court capacity and to contribute to the wider associated costs across the justice system, including community justice, prisons, and legal aid.
- From that funding, approximately £11.8 million has been allocated for use by justice social work services in directly addressing the impact of the pandemic.
- In addition to funding arising specifically as a result of the pandemic, the Scottish Government will also invest around an additional £2.5 million that was agreed in the draft budget to community justice services.
- The SNP Manifesto contains a commitment that “building on our progress over the last 5 years, we will invest in a substantial expansion in diversion from prosecution and of community justice services including alternatives to remand and custodial sentences.”
- Consultation is underway on the creation of the National Care Service (NCS) which has the possibility to radically change how we deliver services.
- The primary focus of the proposals is on adult social care, but the consultation also rightly seeks views on the remit of the NCS and whether it should go beyond this to potentially include all social work services.
- This clearly has implications for justice social work – as well as other areas such as children and young people services – and the consultation seeks views on the potential risks and benefits of including such services in the NCS, as well as on whether any alternative reforms might be explored.
- No decisions have been taken as yet in relation to the justice aspects of the proposals, and views will be carefully considered to inform a decision on the scope of the National Care Service, including for potential future phases of development.
- Engagement is taking place during the consultation period with justice stakeholders including Community Justice Scotland, Social Work Scotland, and COSLA.
- Regulations to reduce unpaid work requirements by 35% (with exceptions for domestic abuse, sexual offending and stalking) in response to the COVID-19 pandemic were scrutinised and approved by Parliament.
- This proportionate measure helped address the unavoidable build-up of unpaid work resulting from essential public health restrictions, while ensuring that those on community orders still serve the majority of their sentences.
- All existing orders imposed up to and including 15 March 2021 were reduced.
- Approximately 270,000 hours of unpaid work were removed as a result of the regulations.
- Although the regulations and additional funding has mitigated risks to the system, the potential for community justice services to be overwhelmed has remained as unpaid work simply could not be delivered in reasonable timescales due to necessary public health restrictions and increasing demand.
- Jamie Greene tabled a large number of written PQs last month including a number on Community Payback Orders and unpaid work. I hope he found those answers helpful.
- CPOs are a valuable component of our focus on effective interventions and we know that CPOs do work to reduce reoffending - individuals released from a custodial sentence of 12 months or less are reconvicted nearly twice as often as those who are given a Community Payback Order.

#### **ADDITIONAL POINTS FROM PQ ANSWERS IF NEEDED:**

##### **Reconviction rates**

- The most recent reconviction rates show that 29% of people with a Community Payback Order (CPO) imposed in 2017-18 were reconvicted within a year, which is the lowest rate since they were introduced.

##### **Completion rates**

- The completion rate for Community Payback Orders (CPOs) has generally been around 70% over the last seven years. This is consistently higher than for the orders they replaced.
- There are a range of factors which can influence the likelihood that an order will be successfully completed. In particular, outcomes are likely to be influenced by the nature of the offending behaviour and individuals' underlying risks and needs.
- Local authorities are responsible for delivering CPOs and, we are continuing to work with national and local partners to help ensure orders are implemented as effectively as possible, and that completion rates are as high as they can be.

#### **CPOs with unpaid work requirement**

- It is up to the independent sentencing judge to decide the most appropriate sentence, including which requirements are most appropriate, based on all of the circumstances of the case – for example, the nature of the crime, information contained in the criminal justice social work report and what is most likely to prevent the individual from reoffending.
- In certain circumstances the court may consider that an order without an unpaid work requirement is the most appropriate sentence to address the offending behaviour and its causes. This is particularly the case where an individual has more complex risks and needs that need to be addressed and unpaid work may not be suitable.

#### **Type of unpaid work**

- Unpaid work has a strong focus on reparation and providing opportunities to make amends and prevent reoffending through strengthening relationships with the community, and through developing useful skills.
- Justice social work staff and unpaid work managers in local areas are best placed to determine what unpaid work is suitable, taking into account each individual's particular circumstances, to help ensure that individuals complete their unpaid work hours in a way which benefits the community.

#### **Briefing 13**

- The Scottish Government took forward legislative changes to include bail in the list of disposals that can be electronically monitored and those were brought before Parliament at the end of last year and agreed.
- We need to make sure, before this change is given effect, that all Justice partners are operationally ready.
- Discussions on operational readiness have been taking place in parallel and once all partners are content we will be able to move to commence the final parts of the legislation to give these powers effect.
- The impact of changes such as use of electronic monitoring with bail, will be dependent on use by the judiciary as they take the decisions about bail and remand.
- We still anticipate partners will be ready for this change later this year and the Criminal Justice Board (with Police, COPFS and SCTS representation) are being kept updated on progress so they can press this for their operational interests.

#### **Briefing 14**

- Proceedings are ongoing in some of the cases however and it would be inappropriate to comment further on any specifics in respect of these cases.

#### **Briefing 15**

- The CashBack for Communities programme takes money seized from criminals under the proceeds of crime legislation and invests them in young people. The programme reinvests criminal assets into community projects to support young people most at risk of being involved in antisocial behaviour, offending or reoffending into positive destinations.
- Since 2008, £110 million has been committed to community initiatives to improve the quality of life of young people right across Scotland.

#### **Briefing 16**

- Police Scotland receives around 2 million non-emergency 101 calls each year.
- In the financial year 2020/21, the average time to answer an emergency 999 call was 8 seconds, and a non-emergency 101 call was 2 minutes 30 seconds.
- The SPA closely monitors Police Scotland's approach, demand and response times to calls received from the public through 999 and 101. This is undertaken through its board, committee and oversight structures, and weekly reports on 101 and 999 call volumes are made publicly available.

- The Authority's Policing Performance Committee will consider 101 call handling performance in detail at its meeting in September.

### **Briefing 17**

- Scottish Government are committed to delivering the following asks from The Promise:
- 16- and 17-year-olds will no longer be placed in Young Offenders Institutes (YOI) for sentence or on remand.
- We are in discussions with Secure Care providers and other key partners to consider future changes to secure care to enable all 16 – 17 year olds a pathway in to secure accommodation rather than YOI. All four of the independent secure care providers are keen to deliver on the Promise.
- This is a complex issue and will require legislative change to the Criminal Procedure (Scotland) Act 1995 to allow all 16/17 year olds access to secure accommodation.
- Discussions are under way for a Care and Justice Bill in this Parliamentary session.
- The latest most up to date total of young people aged 16 – 17 years old in Polmont Young Offender's Institute is 16. This includes:
  - 11 remanded males
  - 1 remanded female
  - 3 sentenced males
  - 1 male awaiting sentence.
- In November 2019, the Youth Justice Improvement Board (YJIB) established a working group to undertake cross system planning ahead of a wide range of potential policy and practice changes.
- The group will present its closure report and recommendations to YJIB on 15 September 2021.

### **Briefing 18**

- The Scottish Government and Justice agencies have worked from the outset to mitigate the impact of the Covid pandemic, for example through the introduction of emergency Covid legislation, facilitating more virtual hearings, and innovations such as remote jury centres in cinemas.
- Both the legal profession and third sector have also contributed positively in response to the impact of the pandemic.
- As restrictions have eased, capacity has increased. The latest monthly figures published by the SCTS show that in July courts were operating close to and in some cases above pre-Covid levels, which is welcome.
- With £50m in Scottish Government Covid recovery funding this year, following the recruitment and training of fiscals and other staff –additional summary and solemn courts will come on stream this month [September]. This will support the process for reducing the backlog in criminal cases through the collaborative Renew, Recover and Transform programme.
- The Scottish Government is committed to continuing to support the RRT programme for as long as it is required.
- Whilst continuing funding is essential, the pace of progress is not simply about finances, but also about available capacity within the system - for example, suitably trained prosecutors and defence agents – and how efficiently that capacity is used.
- Since restrictions were lifted, court activity has moved back close to and in some case above pre-pandemic levels, but a significant backlog remains to be addressed.
- Profiling by the SCTS earlier this year estimated that it would take until at least 2024 to deal with the backlog in summary cases and 2025 for solemn cases. This is highly dependent on the progress of the RRT programme and other developments within the system.
- As the Lord President has noted, through the impact of the pandemic we do have an increased understanding, that we wouldn't otherwise have, on what can be achieved in the virtual or remote world through the use of technology.
- It is appropriate that we consider our learning from the pandemic and which of these technologies and new ways of working should be retained or enhanced.
- The impact of Covid has been variable for different types of court business. For example, much of the civil business has been able to proceed through remote and virtual hearings.
- In contrast, during 2020-21, just over 3,500 criminal trials were called with evidence led in all levels of criminal court, which was 35% of the total in 2019-20, prior to the pandemic.
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- Profiling by the SCTS earlier this year estimated that it would take until at least 2024 to deal with the backlog in summary cases and 2025 for solemn cases. This is highly dependent on the progress of the RRT programme and other developments within the system.
- The single biggest factor in the increase in remand is the backlog of cases created by the pandemic. Prior to the pandemic the remand population was approx. 20% of the total prison population and this has risen to approx. 27%.
- We know that remand can disrupt families and communities, and adversely affects peoples' health, employment opportunities and housing – the very things that evidence shows supports desistance from offending.
- Ultimately, even with additional funding, there are limitations on the available capacity, for example in terms of trained fiscals and defence agents.
- The recovery needs to be seen as part of wider work to renew and transform how justice is delivered.
- The RRT programme requires a justice system-wide approach. Whilst addressing the backlog in court cases, it is also essential that sufficient capacity is available within community justice and prisons to deal with the resultant disposals.
- The Covid recovery programme is part of a wider programme of work to renew and transform the justice system over the next 5 to 10 years. This includes, but is not limited to, on-going work to expand the pre-recording of evidence by witnesses and enhanced support for victims; consideration of the recommendations in Lady Dorrian's report on the more effective management of sexual offences case; earlier resolution of cases; the review and reform of the summary courts; a new Community Justice Strategy and expanded alternatives to custody, and more.
- By all main measures crime including violent crime, is now considerably lower than a decade ago, with fewer victims, but for some types of crime, including sexual crime, the number of offences reported to police has increased over the last 10 years.
- The Scottish Government has taken robust action to tackle sexual offending – improving our laws, encouraging more victims of recent and historical cases to come forward and improving support.
- Decisions to restrict prison regime are never taken lightly but have been necessary and proportionate in order to ensure the safety and wellbeing of those that live, work and visit our prisons.
- In line with SPS' SPS COVID-19 Routemap, restrictions have eased in line with public health guidance. For example, Fife College are now delivering education services across all SPS sites in line with local risk assessments and regime requirements and all indoor gymnasiums and exercise areas are open and operating to appropriate restrictions.
- Independent and robust scrutiny and monitoring of conditions and treatment in our prisons has been maintained during the pandemic through a remote monitoring framework and on-site liaison visits.
- In February 2021, Parliament debated these issues and voted in favour of a judge-led inquiry.
- During that debate the Lord Advocate and the then Minister for Parliamentary Business gave a public commitment that a process of judge-led inquiry would be held into the events surrounding these prosecutions.
- This was re-iterated at FMQs on 17 June 2021 by the FM.
- The exact form of inquiry will be determined at the point once all legal proceedings are concluded.
- The Scottish Prison Service is currently developing a new health and wellbeing strategy as outlined in draft Programme for Government.
- This will include a bespoke mental health strategy for young people.
- Consultation with key partners including the Mental Welfare Commission, Scottish Government and voluntary sector experts is currently underway.
- The development of this strategy is a key action identified in SPS' Delivery Plan for 2020-22, with delivery anticipated during Q4.
- The new youth justice vision, published in June this year, outlines a shared foundation between the Scottish Government and key partners to work together to meet this commitment by 2024.
- The accompanying plan sets out a number of early actions which will be taken towards meeting the commitment, including considering options for secure care delivery in the future.
- Governance oversight of the plan will be conducted by the Youth Justice Improvement Board who are currently setting up implementation groups to lead the work.

## **Briefing 19**

FIRST MINISTERS QUESTIONS – 27 MAY 2021

- **Lord Advocate and Crown Office and Procurator Fiscal Service (Reform)**

- **7. Liam McArthur (Orkney Islands) (LD):**

To ask the First Minister what plans the Scottish Government has to reform the roles of the Lord Advocate and Crown Office and Procurator Fiscal Service, in light of the resignations of the Lord Advocate and Solicitor General. (S6F-00031)

- **The First Minister (Nicola Sturgeon):**

I take the opportunity to briefly put on the record my deep gratitude to the Lord Advocate and the Solicitor General for their extremely distinguished service during the past five years. I am sure that I will have more to say about that in the days and weeks to come, but I record my appreciation, gratitude and respect for them both.

The Government will put nominations for new law officers to Parliament for approval shortly. Until then, of course, the current law officers will remain in office.

As we said in our manifesto, the Government intends to publish a consultation on the dual functions of the law officers, and we will do that in due course. It is vital that the systems of criminal prosecution and investigation of deaths, as well as the role of the law officers in Government, continue to enjoy the full confidence of the public, and I believe that they do.

- **Liam McArthur:**

I, too, pay tribute to James Wolffe and Alison Di Rollo for their service and for their willingness to engage, particularly with those of us who sat on the Justice Committee.

Reform is, however, needed and the First Minister has the power to deliver change. The role of the Lord Advocate needs to be split in order to end the conflicts of interest, including by appointing a director of prosecutions. Fatal accident inquiries must be removed from the Crown Office, as families are still waiting too long. It is a scandal that we still do not know the circumstances surrounding the deaths of Lamara Bell and John Yuill on the M9 six years ago. After the landmark vote in the Parliament in March, we also need change to ensure that those who are in the grip of drugs are diverted to treatment rather than to prosecution and imprisonment.

In hiring the new law officers, will the First Minister commit to those much-needed reforms?

- **The First Minister:**

I will make a number of points, which I hope are helpful. Given potential reform of this nature, it is necessary that there is widespread consensus about the path that we eventually take. First, it is really important to recognise—as, I am sure, everybody in Parliament does—that the dual role of the law officers is not new. It was not created under a Scottish National Party Administration; it has been that way since the dawn of devolution, and the dual roles were held under previous Governments.

Secondly, I think that there is a case for reform, which is why my manifesto committed to carrying out a consultation on that, but it is really important that we take the time to get it right. As I was listening to Liam McArthur, one thing came to mind that Parliament will want to consider during the course of such a consultation. Because of the dual role of law officers, they can be called to Parliament to answer questions, and, on all the issues that fall within the prosecutorial function of the law officers, they can be questioned in the chamber. If we separate those roles, it may not be possible to do that in the same way in the future. Parliament might be comfortable with that, but it is just one example of why there is a need to take care over the matter. We must make sure that we get the consultation right and try to move forward on the basis of as much consensus and proper consideration as possible.

These issues are really serious, and I hope that all members, including Liam McArthur, will engage with them seriously over the course of any consultation that comes.