

Scottish Affairs Committee

Oral evidence: [Problem drug use in Scotland follow-up: Glasgow's Safer Drug Consumption Facility, HC 630](#)

Wednesday 7 May 2025

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Members present: Patricia Ferguson (Chair); Maureen Burke; Harriet Cross; Stephen Flynn; Douglas McAllister; Jack Rankin; Elaine Stewart; Kirsteen Sullivan.

Questions 73 - 115

Witnesses

[I](#): Rt Hon Dorothy Bain KC, Lord Advocate, Crown Office and Procurator Fiscal Service; and Jenny Hamilton, Senior Legal Manager, Policy and Engagement, Crown Office and Procurator Fiscal Service.

[II](#): Superintendent Joanne McEwan, Policing Together, Police Scotland.

Examination of witnesses

Witnesses: Dorothy Bain and Jenny Hamilton.

Q73 Chair: Welcome to this meeting of the Scottish Affairs Committee. We are delighted to have Dorothy Bain KC, the Lord Advocate, with us today, and Jenny Hamilton too. We will be looking at questions arising from the Thistle safer drug consumption space in Glasgow. The Committee has visited the Thistle and has already taken some evidence on the operation. We have also visited the safer drug consumption spaces in both Oslo and Bergen. We are very interested to hear what you have to tell us today.

I will kick off. What legal risks are associated with the operation of the Thistle, Lord Advocate, and in what ways does your statement of prosecution policy address them?

Dorothy Bain: I suppose it is helpful to start off by explaining broadly what a statement of prosecution policy is. It is an instruction to prosecutors as to the public interest in taking a particular response in a particular context. It is a statement of the way the public interest considerations relevant specifically to a prosecutorial decision, which are generally identified by the Scottish prosecution code, would fall to be applied by prosecutors in a particular context. In this context, it is a statement that it would not be in the public interest to prosecute users of the Glasgow safer drug consumption facility for possession of drugs for personal use.

In terms of legal risks for the facility itself, I was not asked to sign off on how the facility itself was operated, and it would not be appropriate for me to do so. Any statement of prosecution policy should not be construed as a ban on prosecution of offences under the Misuse of Drugs Act 1971, should not be construed as prosecutors not enforcing the law, and does not represent immunity from prosecution provided in advance. That is the statement of prosecution policy; that is broadly what it is and broadly what it applies to in terms of the legal risk for the operators of a facility to consider and guard against, in terms of their standing operating procedures.

Q74 Chair: Would you expect those operating at the city council, the health board and so on to have regard to your prosecution statement and to measure their activity against that?

Dorothy Bain: It is important to know what the statement of prosecution policy covers and why it is needed and then think about how that impacts on those operating a safer consumption facility.

The statement covers simple possession offences under section 5(2) of the Misuse of Drugs Act 1971. It applies only where the controlled substance is intended for personal consumption—that is, not drug dealing or possession with intent to supply. It applies only to cases in which the controlled substance is recovered within the boundaries of the facility, and it applies only when the person is attending the facility. It would not



cover, for example, medical professionals working there who are found to be in possession of drugs or to be committing any other offence under the Misuse of Drugs Act, or indeed any other offence. The prosecution policy only covers the duration of the pilot, and it does not cover offences detected outside a facility or on the way to the facility; those are dealt with in the normal course.

For those who are operating a facility, obviously you are seeking to engender confidence in the users coming forward to the facility in order that they can be provided with a safe, hygienic, supportive space to administer drugs if that is what they wish to do, but also to engender confidence in seeking the other available resources within the centre that would direct those vulnerable individuals to support mechanisms and systems and to safe, hygienic spaces, washing facilities and the like.

All that those who are operating the facility need to do is ensure that they operate it within the law, within the standing operating procedures that they have set down. They recognise that those who are coming in possession of drugs are, on the face of it, breaching the law, but there is a prosecution policy in place that means that those individuals will not face prosecution and that they will not be brought before the courts. It is hoped that this combination of the statement, alongside the way the facility operates, delivers the ultimate aim of the facility, which is to reduce public drug use, reduce drug deaths and, hopefully, identify a route for vulnerable people to gain the help and support that they require.

Chair: That is helpful, thank you. I will pass over to Harriet Cross.

Q75 Harriet Cross: Good morning. Thank you for coming in. You have touched on it a bit, but I would like to explore further why possession is the only offence covered by the prosecution policy. Is there a reason why it is the only one? Can you see any reason why it may or may not be extended to other offences? What would the potential impact of that be?

Dorothy Bain: It is important to understand the law and constraints in and around the Lord Advocate's prosecution policy and the statements involved. A statement of prosecution policy requires to be carefully defined, publicly stated and capable of being enforced without any form of difficulty. To be lawful, it has to meet these necessary standards of policy: to be clear, readily understood and publicly available. A wide-ranging statement that related to a number of offences that might or might not be committed within the facility by those working there and those attending it—such as being concerned in the supply of drugs or assisting in administering drugs—is far too wide-ranging a concept for a statement of public prosecution policy to be made. It would not be lawful.

The law requires that the statement is very focused and easily understood. We can provide you with numerous examples from the history of Lord Advocate statements in these matters. For instance, where an individual is in a persistent vegetative state and the doctors



have identified that they would not be resuscitated in certain circumstances, there are statements of public prosecution policy in and around the provision of safe needles and the use of naloxone, but it would not have been lawful to provide a wide-ranging statement that was not readily understood.

Why is the prosecution policy needed in this case? What I understand is that the facility proposers took legal advice and are content that they could operate within the current legal framework, except as far as the users of the facility are in possession of controlled substances.

In the normal course, if an individual is reported for simple possession offences, a range of options including prosecution are open to prosecutors. For an individual reported for simple possession offences, I would expect prosecutors to consider the potential use of diversion from prosecution for very vulnerable individuals. They may also consider offering a fine, and indeed in some cases prosecution may be a possibility.

This provides reassurance to those attending the facility that they will not come into the criminal justice process, which we know seriously upends an individual's life. They will not be fined and there is no potential for prosecution. The statement therefore puts the particular prosecutorial response to possession of drug offences in this specific context beyond doubt, providing what I hope is the confidence to those seeking the support of the facility that they can do so without the risk of prosecution.

Q76 Harriet Cross: I understand what you are saying. The difficulty is that possession is one thing, but obviously drug offences fall into a substantial number of other areas within public prosecution policy. It is not just possession; there is a wide range of things, many of which you have touched on already.

Where does the balance lie between what happens within a facility and what happens outwith a facility? How can people working in and using the facility and people on the outside looking at what is happening at the facility have reassurance that we are not effectively advocating any more relaxation of drug policy?

We have talked about possession, but there are things that happen because of drug use. We know that it leads to higher manslaughter rates and public disturbances. How do these get separated from removing the prosecutorial element of the possession to other elements of drug taking and the impacts that that has on the community, which may happen outwith the facility but as a result of the drugs being taken?

Dorothy Bain: It is a question that should probably be directed to those who operate the facility, because of the standard operating procedures. The reassurances that I was given by those operating the facility were that they could operate the facility within the law, and the only challenge that it presented was the individual presenting with drugs and requiring



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the support to administer these in the facility. Other areas of criminality, within or outwith the facility, remain subject to the same sort of prosecutorial decisions and the same sort of police response that one would expect in any other circumstance.

It is important to understand the key difference between what was originally asked of the previous Lord Advocate and what is being asked now. The scheme that the then Lord Advocate was previously asked to consider by the Glasgow health and social care partnership was one in which he was asked to give a blanket immunity for all criminal offences. That simply could not be done, because as you rightly identify, the risks associated with drug use include a risk of further offending. Sadly, as we know, these include circumstances in which individuals are exposed to criminal prosecution for culpable homicide.

That wide-ranging request, given that there is a whole gamut of offences that could be committed, simply would not have been capable of being met by a limited and targeted statement of prosecution policy. That is all that has been given here: a limited, targeted statement of prosecution policy for a pilot that will be re-evaluated in accordance with the work being done by those operating the facility. It is simply not open, and it is not lawful, for a Lord Advocate to issue a wide-ranging immunity from prosecution in advance of the conduct taking place.

Q77 Harriet Cross: I understand. In the course of the facility proceeding, if you were not satisfied that the operating procedures there were sufficient to replace the legal framework, which is effectively what has happened for possession, would you see that as a cause to revoke or change the prosecution policy in place?

Dorothy Bain: The statement of prosecution policy is heavily influenced by what is in the public interest. I identified that we could apply this policy because it was limited and readily identifiable in the context of the drugs crisis that faces Scotland. I was provided with detail about the way that the facility would operate; I was provided with affirmation about community engagement. My officials worked very closely with Police Scotland, and the police were able to confirm that they are able to police the facility. This combination of factors permitted the very limited statement of prosecution policy to be made.

If the public interest were to be re-evaluated, which it will be, and if there is an evidence base for saying that although we were assured that under the standard operating procedures the facility could operate within the law except for the possession offences, that demonstrably is not the case, that is a factor that will quite rightly be taken into account in reaffirming the statement of prosecution policy. It has to work, and we have to be satisfied that it is working and that it is not causing difficulties, raising the risk of further criminality or having an unlawful impact on the community and the health of those who work in and outside the facility. That is a factor that would be considered in any revision of the policy.



Q78 Harriet Cross: Finally, we know that the UK Government have highlighted certain areas that they are concerned about, in terms of the operation and prosecution policy. Do legal gaps remain? If so, what is the approach to tackling them? Or are you pretty confident about how things stand?

Dorothy Bain: How the facility operates, how the standing operating procedures are upheld, and the fact that we have been assured that the facility can operate within the law, other than possession offences—those are all that I am concerned with at this stage. If there are to be wider statutory policy changes to allow the facility to operate beyond the pilot, that is a matter for elected parliamentarians to consider.

I am a Law Officer; I am not a politician, and I am not a member of any political party. If there are to be changes in legislation to permit the facility to operate in a different way with a different legislative framework, that is not for me; that is for you, the elected parliamentarians, to consider, to debate and to take advice on from those who are working in this very challenging and important field.

Q79 Jack Rankin: Thank you for coming, Lord Advocate. I want to dig into the answer that you gave to my hon. Friend the Member for Gordon and Buchan. You were quite clear that you see this as being slightly different from 2017, when some kind of blanket immunity was asked for. You think that this is much more limited. But the Home Office has said, “There is no lawful basis by which drug consumption rooms can be operated in the United Kingdom.” When refusing to grant this application in 2017, your predecessor did not necessarily, to my understanding, talk about the scope of it. Rather, he talked about the principle, claiming that the matter was one that should be dealt with by Parliament rather than by the Lord Advocate. On what basis do you think that this is a matter appropriate to address under your prosecutorial discretion, and not one for us in this place, as you say?

Dorothy Bain: Well, I hope that you have read the written evidence that was presented, and appreciate the constitutional position of the Lord Advocate of Scotland, which is different and distinct from the way in which prosecution operates within other parts of the United Kingdom. The drivers for agreeing to this request were that I was asked a specific and focused question about the public interest in prosecuting individuals using a specific type of facility. I am not in a place to comment on what the Home Office has said or on what other areas of the United Kingdom might provide for. I was operating as the Lord Advocate in a constitutional position that I hold, and one that I protect fiercely.

The relevant considerations for me, in granting this specific and focused prosecution policy statement, were that the facility would operate in a place where public injecting in Glasgow was already a significant issue. I know that you have heard a lot of expert evidence about that and the profound concerns of those who work in the field and are dealing with a challenging situation that is faced in Scotland. I understood also that it



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was intended to engage with those in that area whom health and support services find difficult to reach.

Central to my consideration as the Lord Advocate of the request was the fact that the proposed facility would be co-located with other services that, taken together, may be able to offer a range of care, support and assistance to those consuming drugs. Further, although I am aware that it is not the main aim of the proposed facility, my understanding and the apparent reality is that the facility could cover, over time, in some cases, the necessary resources to assist vulnerable individuals into recovery. I was assured that the local community would be proactively engaged, the impact of the facility would be carefully monitored, and that the Scottish police would be capable of effectively policing the facility. I was also assured that the pilot and its impacts and effects would be subject to a highly rigorous evaluation.

Moreover, the co-location with other services and the potential for assistance meant that the statement of prosecution policy is in keeping with the long-standing principles that underpin the Scottish approach to diversion from prosecution. We seek to uphold a prosecution service that is progressive, is humane, provides justice and delivers mercy, so we have a diversion policy that allows prosecutors to make an offer of a referral to local authorities where there is an identifiable need that has contributed to the offending and which can be best met through a diversion scheme.

I have said previously that addiction to drugs may be such a need, and in these particular circumstances I am content that the proposed facility could provide a mechanism to engage with some of the most vulnerable people in our society. We are not changing the law; the law remains. It is a statement that those in possession of drugs looking for help are not going to be prosecuted. I have not changed the law.

Q80 Jack Rankin: I thank the Lord Advocate for her answer. This is perhaps more of a comment from me than a question back to the Lord Advocate.

You make an incredibly compelling case that this facility is in the public interest. I acknowledge that I am not a lawyer—I am a layman and a new parliamentarian—but the case you articulated sounds very much to me like one that should be in the realms of policy rather than the law. That is not a challenge to you, but that seems to me, as a layman, to be where this should most appropriately sit.

Dorothy Bain: I respect entirely your point of view, and I congratulate you on your election. It must be a wonderful experience for you to have the privilege of serving on this Committee that is dealing with such an important matter, which is of enormous public interest in Scotland, but I do ask you to think about the constitutional position of the Lord Advocate in Scotland, which has been in place since the 1500s and has served Scotland well over that time. After today, I can share with you the historical context of the great office of state that I hold and the detail of



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the dual role that I operate. I think you will be hearing soon from the Cabinet Secretary for Justice, in respect of whom policy considerations, and the development of the law in and around these issues in Scotland, lie.

Jack Rankin: Thank you.

Chair: Kirsteen Sullivan has a supplementary question.

Q81 **Kirsteen Sullivan:** From what you said earlier, am I correct in understanding that the proposal put to the previous Lord Advocate was substantially different from what was put to you, perhaps on the basis of a better understanding of what the law required in terms of a statement of prosecution, which would allow a more targeted facility and allow you to provide a statement that is clear, understood, and readily available to the public? Is that the difference?

Dorothy Bain: That is exactly right; you have it absolutely. I can make an analogy with the statement of public prosecution that the Lord Advocate of the day in Scotland issued for those seeking to be assisted in suicide. There was a case called Ross that went to the Appeal Court in Scotland that defined the parameters of a statement of public prosecution policy in Scotland. That is something we can share with you after today.

Why did the former Lord Advocate reject the previous proposal? As I understand it, the then Lord Advocate was asked by the Glasgow City health and social care partnership to confirm, by way of guidelines, letters of comfort, protocols or indeed a formal policy, that a wide range of persons—the health board, the council, their staff, partner organisations and their staff, and service users of a proposed drug consumption facility—would not be prosecuted for a range of potential offences. The proposal involved a request for immunity from prosecution for a wide range of offences committed by users, operators and staff, up to and including the very serious offence of culpable homicide.

There was also a request to the Lord Advocate to permit tolerance by police officers of those found in possession of drugs claiming to be on the way to the facility. Although the then Lord Advocate recognised a serious public health concern motivating the proposal, it simply was not open to the Lord Advocate to grant such a wide-ranging immunity. I suppose what was eventually asked was a different question: what is in the public interest?

Q82 **Elaine Stewart:** Good morning, Lord Advocate. The statement of prosecution policy provides a radical change in the UK's approach to drug treatment. To what extent is it ideal for the radical change to be enabled through prosecutorial discretion rather than a full legal framework?

Dorothy Bain: It has always been the case that the Lord Advocate in Scotland can make statements of prosecution policy. In this context—and in every other context in which prosecutors in Scotland take decisions in and around prosecution—we consider the public interest. How the public



interest is considered is set down in the Scottish prosecution code. This is not anything new; we have numerous examples over a long time of statements of prosecution policy, for example as to the provision of safe needles and the administration of naloxone. This is not new, but the question is: what is the position in Scotland and what does the public interest require? We have seen from the expert evidence that this Committee has heard that Scotland has a particular problem that is driven by a lot of factors, some of which relate to post-industrialisation challenges, with deep-rooted areas of deprivation that expose communities to the risk of drug use, which then expose people within those communities to the risk of drug death.

As the public prosecutor responsible and as the head of the system of prosecutions in Scotland, I am asked the question in every decision that I take: what is in the public interest? Is it in the public interest to prosecute individuals within the safer consumption facility for possession of drugs? Part of the reason we understand they go there is to seek help, seek safety, seek hygiene, but also seek the opportunity to be referred to other support services. What would be the point in setting up such a facility if the individual going in there were to be prosecuted? Why would they go? It makes no sense. So it is a very simple concept: what is in the public interest?

Elaine Stewart: That was a nice full answer. Thanks very much.

Q83 **Kirsteen Sullivan:** Lord Advocate, you mentioned some of the aims of the facility, which include reducing public drug use, reducing drug deaths and helping vulnerable people to access support to recovery. To what extent was your prosecution policy predicated on academic and medical evidence that drug consumption facilities benefit public health?

Dorothy Bain: Before the decision was taken—ultimately by me as Lord Advocate, head of the systems of prosecution—there was a significant body of work done by Jenny and her team within policy, by those responsible for the operating of the facility and by the police, in and around whether or not this was a good idea, to put it simply. Fundamental to the decision making is what the expert evidence base reveals. In and around all that, there are arguments for and against that we have read, but there was a significant body of evidence from international bodies and from those advising on the challenges internationally and nationally of what it means to have a drug problem such as we have in Scotland, and whether or not the safer consumption facility is one aspect of an appropriate response to what was a very challenging problem.

Within all the material that we looked at, the officials within the Crown Office looked at the evidence base for the assertion that the safer consumption facility was something that could assist in the possible reduction in drug deaths, but also assist in the reduction of public consumption of drugs, public injection, blood-borne viruses and disease associated with drug use. We looked at expert evidence nationally and



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internationally. We looked at experts in the field and we were heavily influenced by what the medical profession within Scotland was telling us. There was an overwhelming body of evidence that there was a sound basis to say that this could help and that it is in the public interest to have a facility of the type envisaged, and to have a pilot to see if it does work, to allow for a better evidence base for further prosecutorial decisions, perhaps by later Lord Advocates. I recognise I am only the custodian of this office for a brief time in its great history.

Q84 Kirsteen Sullivan: As the Chair has mentioned, this Committee has visited sites in Oslo and Bergen. Did you and your office look at evidence from such sites, particularly as to comparative problems not just with drug deaths, but with drug harms, including those arising from blood-borne conditions?

Dorothy Bain: Lawyers working within the Crown Office? I do not think so. Have you visited abroad?

Jenny Hamilton: No.

Dorothy Bain: No, but there is certainly quite a substantial body of evidence published, so they were informed by that and by experts in the field in Scotland, who were saying that they could operate this facility within the law in accordance with their standing operating procedures, and that they hoped that it would assist. Then lawyers working on my behalf went to the Thistle centre before it opened and were greatly impressed by the facility and its staff.

My involvement in the facility has been narrow and focused on consideration of the provision of a public statement of prosecution policy. That has provided a framework for the police and prosecutors to deal with cases of drug possession within the facility and has provided the operators and the users of the facility with the comfort to operate.

In addition, my officials maintain regular contact with the operators, the police and stakeholder groups engaged in the delivery of the facility. I am not asked to sign off on the facility, which is not my responsibility, and I do not consider that I personally am required to see the operational details of the facility or the practical delivery of the service that it provides. But we have been informed across the board by expert evidence and what seemed to us highly compelling evidence of experts working in the field of medicine in Scotland, that this could help.

Q85 Kirsteen Sullivan: To clarify—I am aware of time, so I would ask you to be brief on this point—you did look at comparative evidence from other cities and countries that had similar problems and at the evidence emerging of the efficacy or otherwise of drug consumption facilities.

Dorothy Bain: Precisely. Before the decision was made, my officials worked on a full briefing to me that looked at the evidence base, but also looked at the law and whether or not it is lawful for such a statement to be made. It was a complex analysis that was undertaken, considering



expert evidence, factual material, statistics available and legal analysis. All of these factors were brought to bear in making the decision that was ultimately arrived at.

Q86 Kirsteen Sullivan: You have emphasised the importance of a robust evaluation at the Thistle. What outcomes would you class as clear evidence that the facility does indeed benefit public health?

Dorothy Bain: It really would have to be a robust evaluation of all that was done within the facility and that there was, to our satisfaction, a rigorous evaluation that looked at the standard operating procedures, the appropriate risk analysis associated with that, whether or not there was an evidence base to demonstrate that the facility was operating within the law—common law, regulatory law and criminal law—and what those treating the individuals within the facilities were saying as to the outcome in terms of preventing deaths, referral to services and the ongoing impact on the community: the public impact, the economic and business impact on the community, and the overall health and wellbeing of the community that the facility was located in. They are all factors that one would expect to be considered during the evaluation process to permit a further assessment to be made of whether or not the prosecution policy that was stated would continue. It would be a robust evaluation exercise looking at all aspects of the facility.

Q87 Kirsteen Sullivan: To get a little more clarity on this, what outcomes would you see as clear evidence that this facility has delivered benefits to public health—for example, a reduction in drug deaths or a reduction in related illnesses and conditions? Do you have a clear set of outcomes that will in some way be measured throughout the pilot?

Dorothy Bain: It is a hypothetical question; I think we would just have to see what the evaluation delivered. What I did previously was to explain the factors that were relied on in order to make the statement of prosecution policy. If we were not satisfied of these factors, it is something that we would have to consider. But you are asking me to comment on something that has not yet taken place and has not yet reported, and the decision will be made in the usual way, in the public interest, when the evaluation is reported.

Q88 Kirsteen Sullivan: I am looking for a statement of what you would see the success criteria to be in terms of benefiting public health, as per the stated original intention.

Dorothy Bain: I would have to be guided by the experts in public health as to whether or not they considered it to be a success. I am not a doctor; I am not an expert on drug use or drug disease; but what I would do is consider what the experts were reporting about the impact of the facility. That is all that the Law Officers of the day can do. They cannot set targets now as to what would be a success, because it has to be informed by the operators of the facility reporting and by what the expert evidence reveals.



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Q89 **Kirsteen Sullivan:** Okay, thank you. To what extent did your assessment that it would not be in the public interest to prosecute users of the Thistle hinge on the time-limited nature of the three-year pilot?

Dorothy Bain: It was a statement of prosecution policy that relied on assertions, expert evidence and assurances that the operating protocols put in place would meet certain standards and that the facility would operate in a certain way. It was on that basis that the statement was made. You do have the statement of policy that indicates what was expected, and the fact that it was time-limited and is subject to an evaluation was important in order to ensure that there remained a lawful basis for the prosecution policy to remain. It is affording a period of time to reflect and determine whether or not the original decision that this was in the public interest remains a sound one.

Q90 **Douglas McAllister:** Good morning, Lord Advocate. If the three-year pilot scheme assessment points towards success, supporting the argument that such a scheme or facility benefits the public interest—and, as you said to us earlier this morning, it is evidence-based and guided by those experts—can you extend your discretion to allow the facility to continue to operate without a change in UK law? Can you and would you?

Dorothy Bain: You are absolutely right in the way that you characterised the basis upon which the decision was made. There will be rigorous evaluation of the project, and with all the factors you have identified—expert evidence, factual evidence, information about the safe management of the facility—if all of it remains compelling, as it is at the moment, I would expect the same assessment of the public interest to be made, whether it is by me or by another Lord Advocate. Again, that is a hypothetical discussion, and I am reluctant to be drawn on hypothetical discussions, but I can say this: that if a request were received for an extension of the statement of policy to extend the pilot scheme, yes, it would be considered.

Q91 **Douglas McAllister:** It would be considered. Your original decision is based on the public interest, so if it remains in the public interest, the Lord Advocate—whether it is you or someone who succeeds you—can extend it, in your opinion. If the UK Government expressed opposition to that and you were in office at that point, would you still do so? Would it influence your decision in any way if there were an expression of opposition by the UK Government?

Dorothy Bain: Again, it is a hypothetical, but I suppose if the UK Government were against the safer drug consumption facility, they would express the reasons why that was the case, notwithstanding the crisis in Scotland and the fact that it is recognised that a national mission is required to deal with the hugely concerning situation. If they had something of import that was persuasive and undermined any argument that was made, of course that would be taken into account. But I would expect that if there were to be a further request for an extension to the pilot scheme, it would be supported by evidence and by appropriate



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engagement with the police and the local community. These things are not done on a whim.

Douglas McAllister: I appreciate that, yes.

Dorothy Bain: It is a serious issue that is of an enormous importance, not just to me but to the whole of the prosecution service in Scotland and to our fellow citizens.

Douglas McAllister: Thank you, Lord Advocate.

Q92 **Chair:** In November 2021, you set out specific criteria that a proposal for such a facility would have to meet for you to be able to consider it, as you have explained to us today. If you were to receive an approach from another local authority or HSCP that was proposing to have such a facility, and which also met those requirements, what attitude would you take to it? I realise that that is partly hypothetical, but if that were to come to you today, would you consider it?

Dorothy Bain: Any other proposal of the type that we have in this case that you have taken evidence on would be considered in the same way.

Q93 **Chair:** Is the fact that we are waiting for the evaluation of the Thistle, and we do not have the outcomes yet, something that would influence your view?

Dorothy Bain: The statement of prosecution policy was made on the Thistle on a basis of expert factual evidence and the statistical features of drug deaths in Scotland. It was specifically identified in the area in Glasgow that it is operating within that this was a location with particular issues around open drug use and the deleterious impact that that was having on the local community and the business community. There was a focused area in Glasgow where it seemed to be a very intense problem.

All these features led to the ultimate decision that was made. There is no reason why—notwithstanding that the evaluation had not been properly reported on and we had not received all of the information resulting from it—we could not make the same sort of assessment even now to another such facility, so long as it was underpinned by the very strong evidence base that we were given in order to make the decision for the Thistle centre.

Q94 **Chair:** That is very helpful to know. Have you received any other such proposals?

Dorothy Bain: I have not received any other proposals.

Q95 **Maureen Burke:** Welcome, Lord Advocate. Although those within the facility will not be prosecuted for possession offences, those en route with drugs may be. To what extent is this distinction pragmatic?

Dorothy Bain: One of the huge challenges when we were trying to be assured about the basis upon which we were granting the statement of prosecution policy was the way in which the police would be given



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confidence that they could police such a facility. There were suggestions of exclusion zones, tolerance zones and the like. That was a very confusing analysis, and it simply was not giving the police a clear basis upon which they understood that they were required to do their job, which was to enforce the law. The law is to be upheld and enforced appropriately. There is no exclusion zone, there is no tolerance zone, there is no buffer zone. If the police were to come into contact with an individual who was in possession of drugs for their own use, they are expected to respond to that in the same way that they would respond even if someone explained that they were on their way to the facility.

There are a number of ways that the police respond to simple possession offences, from recorded police warnings through to reporting the matter to the Procurator Fiscal, who then would take a prosecutorial decision in the public interest in respect of that individual, and a decision would be made whether or not to prosecute. It is unusual for the Crown Office and Procurator Fiscal Service to prosecute an individual for a simple possession offence, and there are diversion schemes that are available in that respect that we hope would be able to direct people on to services that provide support and rehabilitation. It is the lawful way that we can operate the facility.

Q96 Maureen Burke: Thank you. I think you have answered part of the question regarding the exclusion zone. If Glasgow City health and social care partnership had included a request for an exclusion zone in their application to you, would you have granted it?

Dorothy Bain: No, because there would be significant practical and legal difficulties with such a proposal, not least in delineating who it applied to and how broadly. It would cease to be a specific articulation of policy and become something much broader. There is no tolerance zone around the facility. I think you will hear from the police later on today. As you are aware, Police Scotland has operational independence, and it has been of the utmost importance to me to ensure that Police Scotland retains the operational ability to effectively police the facility and ensure that the wider community, those operating the site and those using the facility can be kept safe.

In practice, if an individual is found in possession of drugs and claims that they are on their way to the facility, the officer may deal with the case as he normally would. As I have said, that may be a recorded police warning or a report to the Procurator Fiscal, and the Procurator Fiscal would consider each case on its own individual merits.

Q97 Stephen Flynn: Thank you, Lord Advocate: you have been particularly clear about your constitutional position, the remit that you hold and the rationale behind the decision that you have taken, and we are all grateful for that.

I visited the facility last Thursday morning; I put on the record my thanks to the staff at the facility for making it possible at such short notice. They



raised two issues with me that I assume you will be broadly familiar with. One was the use of single-use tourniquets; the other was an inhalation room. I would be grateful for your views in respect of whether there is any scope for discretion in respect of either of those matters, and indeed whether your office has been approached with respect to either of those issues as well.

Dorothy Bain: I know from reading the evidence that the Committee has heard the need for more facilities to be provided within the Thistle—inhalation pipes within the facility, for example. At present, the statement of prosecution policy applies to possession by the users of the facility, and it does not distinguish between ways in which the drug is consumed. I have not been asked about the potential for inhalation or asked to develop any policy differently because of the need to assist in the application of tourniquets. Although I have considered each request on its merits, it is primarily for the operators of the facility to ensure that they keep within the confines of the law and, importantly, keep their own staff safe.

Any request for an extension of the statement to cover potential offences committed by the operators of the facility would have to be considered carefully. As is already the case, I would expect the proposers and operators to do all they can to satisfy themselves that they can operate within the confines of the law.

Personally, I simply would not wish there to be an incremental widening of the statement of the prosecution policy on the basis that it makes things easier for the proposers. It simply would not be appropriate for me to do that, and for the operators to take shortcuts on the basis that they can simply come to me and ask for an exemption from prosecution from the laws put in place to protect users and staff. I know the challenges that they face. The question of what other legal changes are necessary to afford the facility a better way of operating is, again, something for the legislature and for parliamentarians to consider and legislate on. I can only do what I can within the parameters of my constitutional position and what the law allows me to do.

Q98 **Stephen Flynn:** That is incredibly helpful; thank you for that clarity. On a related note, while I was at the facility on Thursday I took the opportunity to walk around the surrounding area, as hopefully many of us around the table have done. There was obviously a significant amount of drug paraphernalia nearby. The police will be coming to speak to us later this morning, but I am just curious as to whether your office has received any indication that there has been a rise in criminality or in drug use in the surrounding area, outwith the facility. There have obviously been a substantial number of people who have suggested that has been the case; I would be grateful for clarity from you and your office as to whether that reflects the reality that you are seeing.

Dorothy Bain: I can come back on what would happen if the evaluation shows an adverse impact on the local community, but I think Jenny does



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sit on a number of the groups that we have overseeing what is happening, and in that she does gather some information that might be relevant to the point that you have asked. Jenny?

Jenny Hamilton: I have not been told of a rise in criminality in the area but Superintendent McEwan, who is attending afterwards, will be able to comment in more detail on that. We are aware anecdotally—and indeed the Committee has heard from the operators themselves—about anecdotal rises in drug paraphernalia being left out. My understanding is that is something that the independent evaluation run by academics will be monitoring, so what I am hoping is that we will be able to get that independent view from the academics.

Stephen Flynn: That is very helpful. Thank you.

Dorothy Bain: I would say that if the evaluation shows an adverse impact on the local community, I would expect the proposers and operators in the first instance to respond and mitigate those issues. Clearly the prosecution policy has a wider impact than on those to whom it directly applies. Any assessment of the public interest in a particular policy or approach must consider a range of factors including the impact on the wider community. The impact of the facility on the surrounding residents would be a relevant factor in my assessment of the public interest in issuing the statement of prosecution policy, and it certainly was a heavy feature; it was one of the areas that I asked the proposers to consider and respond to before we looked at the evidence base for the statement of prosecution policy. You have heard evidence about the community engagement that those who are operating the facility have engaged in.

Q99 **Kirsteen Sullivan:** Lord Advocate, you have touched upon this point already in mentioning the role of Members as legislators. To what extent is your prosecutorial discretion an appropriate substitute for a full legal framework allowing and properly regulating safer drug consumption facilities?

Dorothy Bain: The role of the Lord Advocate in Scotland reflects a long-standing history of the office, which long predates devolution. I and my predecessors exercise the functions of the Lord Advocate with professionalism, integrity and independence. It simply is the position that in Scotland the Lord Advocate holds a great office of state, and the Lord Advocate holds the power to exercise prosecutorial discretion and issue prosecution statements of policy.

The way that I operate my role does not undermine the position of the UK Government and it does not undermine the law. I am responsible for upholding the law and upholding the rule of law, and I take the office that I have and the role that I serve very seriously. I protect the constitutional independence of my role fiercely. I think that the question that you ask does not fully understand the difference between the systems of



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prosecution of crime in Scotland and in the rest of the United Kingdom, and the role of the Lord Advocate.

Douglas McAllister: Can I come in with a supplementary on that, Chair?

Chair: I will let Kirsteen finish her question.

Q100 **Kirsteen Sullivan:** I will just clarify my question. If there are many proposals being put to you to address an issue of public health, such as the terrible statistics that we are seeing around drug deaths, and if you are receiving repeated requests around that, do you see it as more appropriate that legislators step in to take ownership of this issue, or do you believe that using the rights of your office to give prosecutorial discretion is an appropriate way to respond to such requests? I am just trying to understand at which point this really should become a matter of policy and legislation.

Dorothy Bain: I am only able to operate within the legal framework that exists, and the requests that I may or may not receive we will come to learn in due course. As I say, it is hypothetical that I would be asked to make any other statement of prosecutorial policy in relation to any other safer consumption facility, but I cannot say any more than that I operate within the current law. If there is to be a change in the law, it is for parliamentarians to make that change, not for me. I am a Law Officer; I am not an elected Member of Parliament. I am not a member of any political party, and political decisions taken in relation to the way in which legislation should be changed are ones for elected parliamentarians. It would be inappropriate for me to express any view on that.

Q101 **Douglas McAllister:** I appreciate that, Lord Advocate, and this is in no way a criticism of you, but I do feel as if we have had to dance on a pin just to allow one facility to operate. You have quite correctly used your discretion in relation to the statement of prosecution policy that it is not in the public interest to prosecute, and that allows for this one-off three-year pilot scheme.

If it does prove to be successful and the Scottish Government see the benefit of rolling this out and continuing with that discretion, obviously the Misuse of Drugs Act 1971 is UK legislation, but I fully appreciate your dual role. You have explained to us that you took that decision as a Law Officer and that you act independently, but you are also a Minister in Scotland, and you are the principal legal adviser to the Scottish Ministers and Scottish Government, so if they do want to roll out that scheme, what would your advice be to them in relation to how they do that?

Dorothy Bain: I can only repeat that the decision for legal change in terms of legislative change is a matter for elected parliamentarians.

Q102 **Douglas McAllister:** Sorry to interrupt you, Lord Advocate, but they would take that decision, would they not, based on your legal advice because you are their principal legal adviser and a Minister in Scotland?



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Dorothy Bain: I think the question you ask is not entirely relevant, because the decision that relates to whether or not the Misuse of Drugs Act is changed is a decision that rests with the Westminster Parliament. The Misuse of Drugs Act is reserved, and it is not something that the Scottish Government can legislate for, but it might be helpful to understand that the position of Scottish Law Officers reflects a long-standing practice, pre-devolution, in which members of the Government had various responsibilities in relation to legal advice, the legal system and rule of law generally.

The Lord Advocate and the Solicitor General for Scotland were Ministers in the Government, as were the Attorney General and the Solicitor General of England and Wales and the Lord Chancellor. On devolution, the Lord Advocate and Solicitor General for Scotland became members of the Scottish Government, bringing with them many of their existing functions, including, in particular, in relation to the provision of legal advice and their independent functions as head of the systems of prosecution of crime and investigation of deaths, and acquiring some new ones, including advice on legislative competence and devolution issues.

Other functions, as you know, were transferred to the Advocate General for Scotland. The Law Officers also became full members of the ministerial team, sharing collective powers with Scottish Ministers and subject to the usual rules of collective responsibility. At the same time, special provision was made for providing appointees with protection against removal and against interference with the exercise of their prosecutorial and investigation-of-deaths functions, and the Law Officers continue to exercise these various roles with professionalism, independence, and integrity.

Q103 **Douglas McAllister:** Thank you for that. When the Scottish Ministers decide to weigh up the benefits of the scheme, and you remind them that the Misuse of Drugs Act 1971 is UK-based, how far can they take that discussion in relation to their and the Scottish Government's powers to roll out the scheme to other areas across Scotland and to extend the statement of prosecution policy that it does not remain in the public interest to prosecute using those facilities? I guess they would turn to you as the principal legal adviser for that advice during those Cabinet discussions.

Dorothy Bain: It is important to know that the Scottish Law Officers are not members of the Scottish Cabinet. They do not have a vote, and they do not discuss matters of policy.

Douglas McAllister: I understand that, but they would seek legal advice from you.

Dorothy Bain: I am just saying that, consistent with long-standing practice, the Lord Advocate or the Solicitor General attends Cabinet meetings whenever it is required, which in practice means when Cabinet is discussing a matter with a legal aspect or to represent their own



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ministerial interest, in particular as the head of systems of criminal prosecution and investigation of deaths in Scotland. The Cabinet does not discuss prosecution cases and has never attempted to influence my decision as a prosecutor. I take the decisions as head of the systems of prosecution independently of any other person. My decision on the public interest in relation to prosecutions in particular circumstances will be, and always will be—like all my prosecution decisions—made independently by me.

It is a long-standing principle that the Law Officers operate entirely independently of any other person as they undertake their prosecutorial and investigation-of-deaths functions. As you will know, this is enshrined in the Scotland Act: it is formally recognised in section 48(5) of the Scotland Act 1998.

Q104 Kirsteen Sullivan: You will be aware that some key stakeholders have raised concerns that relying on a statement of prosecution policy allows room for interpretation and discretion, which may result in inconsistent and inequitable application of your policy. How do you respond to that?

Dorothy Bain: I do not accept that. Perhaps it is unfortunate that they think that. If there are concerns in and around that, that is a matter that could be brought to me as Lord Advocate or indeed the officials that I have supporting me in the work that has been ongoing and the deep commitment to seeing this is done properly. I am sure it is unfortunate they feel that way and we can explain the position if they do not understand it.

That would be an opportunity that I would welcome being part of, but it is simply an instruction to prosecutors as to the public interest in taking a particular response in a particular context. It is a statement that it would not be in the public interest to prosecute users of the Glasgow safer drug consumption facility for possession in the facility for personal use. It is as simple as that.

Q105 Kirsteen Sullivan: Do you think there is sufficient clarity, so there should not be any scope for different interpretations?

Dorothy Bain: I do not accept that. It is of such importance. It is deeply unfortunate if that is the point of view that is being expressed. We would like the opportunity to engage in that, to reassure individuals just exactly what the prosecution statement relates to. It relates to possession of drugs for personal use inside the facility.

Q106 Elaine Stewart: You will be pleased to know that this is the last question for you today. What issues would a full legal framework need to resolve to provide a sustainable footing for the facility?

Dorothy Bain: Again, that is a hypothetical question. It is not for me. We are at the stage where the facility has only been running for a few months. It is a pilot, and it is a novel approach. It is an approach, as I understand it, that comes from an extremely good place. All I can say is



that the prosecution policy is not a replacement for a full legal framework.

In terms of criminality, there are Lord Advocate's guidelines in relation to the reporting of offences detected within the facility that are provided to the police. Where the police detect a possession offence and seize a suspected controlled substance, they submit it to the Procurator Fiscal, they do so by an abbreviated report, and if there is any other offending—including other section 5(2) possession offences detected outwith the facility—they are dealt with in the normal way in which the law applies.

If there is to be a full legal framework that impacts on the operation of the facility itself, that is a matter for parliamentarians to develop, not for me, but it might usefully be informed by the experiences of those who are operating the facility during the pilot period. You are already hearing about challenges in and around methods of assistance, provision of inhalation spaces, applications of tourniquets and the like, but that is not covered by the statement of prosecution policy.

Chair: Thank you very much, Lord Advocate and Ms Hamilton. That is the end of our questions. We are very grateful to you for coming along this morning and for giving us your time and your evidence; we will reflect upon it as we go forward with the rest of our evidence sessions.

Examination of witness

Witness: Superintendent Joanne McEwan.

Q107 **Chair:** We now resume this session, looking at safer drug consumption rooms and specifically the Thistle in Glasgow. We welcome Superintendent Joanne McEwan from Police Scotland, who is here to give us her evidence.

Good morning, Superintendent. Thank you very much for being here. Could I ask you to open by characterising Police Scotland's approach to the policing of the Thistle centre?

Superintendent McEwan: Yes, of course. Thank you for having me this morning. What I will do, if it is helpful, is give an overview of the two main aspects: how we would deal with incidents reported within the centre, and how we would deal with incidents reported outside. Excuse me while I refer to my notes.

As the Lord Advocate has explained this morning, there is no change to the law: possession of drugs within the facility remains a criminal offence, and we have been clear on that throughout. Of course, the statement of prosecution policy clearly states that it would not be in the public interest to prosecute users of the facility for a simple possession offence.



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There are a couple of points that I would like to highlight before I go into a little more detail about how we deal with incidents. The first is attendance at the facility. Persons on their way to attending the facility cannot use that attendance as a defence. As the Lord Advocate explained this morning, there is no tolerance zone. The statement relates to the footprint; we have been clear in developing the guidance alongside the proposers to clarify exactly what the footprint of the facility means.

Another important point—my apologies if there might be some repetition this morning—is that notwithstanding the statement of prosecution policy, all decisions made on prosecution are for Crown and are not a matter for Police Scotland. Our role is to report matters to COPFS in that regard, and that has been the cornerstone of the guidance that we have developed.

I will start with possession-only offences under section 5(2) of the Misuse of Drugs Act. Recorded police warnings are not used for users of the facility found in possession of drugs, so we will not use a recorded police warning, which can often be described as a direct measure. Where officers detect an offence and seize a suspected controlled substance, they will submit a report to the Procurator Fiscal. It is a particular type of report where we are seeking advice and guidance from COPFS on how it would like us to proceed, and that is where it makes that prosecutorial decision. This applies only for a simple section 5(2) offence where there is no other offending. It is obviously important that when we are submitting that report, the connection to the safer drug consumption facility is made clear in the report.

I will move on to other types of offence, starting with possession offences outside the footprint of the facility. They will be reported as normal, as they ever would be. That could be by recorded police warning or it could be a standard prosecution report; that will be a decision for the officer based on the prevailing circumstances.

Moving back to the footprint, should we attend an incident in which there are a number of offences—perhaps where there is a broader offence, for example a theft or threatening behaviour—and should officers in the course of dealing with that incident also detect a suspected controlled substance, which would be a section 5(2) offence, all matters would be reported together via a standard prosecution report to the Procurator Fiscal, again making it very clear through the case reporting mechanism that these incidents relate to the safer drug consumption facility. That allows our colleagues in Crown to apply the statement of prosecution policy as they see fit to the section 5(2) offence contained within that broader number of offences.

Any offences detected within the facility where there is no section 5(2) possession offence will be reported and dealt with in the normal manner. The reporting mechanisms, as I touched on earlier, as we have worked through the guidance, have been set up in such a way to ensure that we



can call out very clearly to colleagues in Crown that any incident, whether it is a simple possession offence or a broader offence, has that connection to the SDCF. In addition, we provide a report on a weekly basis to colleagues at Crown so that they can be clear as to whether there have been any incidents for them to report.

As I said earlier, in any cases that are covered by the statement of prosecution policy, we will seek advice and guidance from the Crown as to any further action required from police. As I sit here and speak to you today, it is really important to say that there have been no crimes and no incidents. We provide a weekly report, but it is a nil return thus far.

Q108 **Chair:** That is helpful. Is it a particular challenge for officers who police in that area to understand that this is a slightly different scenario from the one they might face in another part of the city? Is that something you have had to be aware of, or you have had to brief officers specifically?

Superintendent McEwan: We certainly have briefed officers specifically. It is important to say, and we probably all acknowledge, that it is a novel approach—this is the first time in the UK. My team and I work primarily in strategic policy and harm prevention. I am not in local policing at the moment, but we have worked very closely with them throughout the development of the guidance, and what has been important for me and my team—*[Interruption.]*

Chair: I have no idea what that noise is, but I think it might have something to do with VE day. We could try to ignore it, but that might be asking a bit much. I will suspend the meeting for a couple of minutes to see if we can find some way around this.

Sitting suspended.

On resuming—

Chair: We will resume our meeting. I am sorry to have interrupted you, Superintendent McEwan; these are things that we cannot do very much about, unfortunately. You were explaining to us about the challenges of policing in the area.

Superintendent McEwan: Yes. As I was saying, it has been really important for me and my team to give officers the clarity that they need to really understand what we are asking them to do, but also what we are asking them not to do, as it pertains to the guidance. In order to do that we have worked very closely with colleagues in G Division, where the Hunter Street facility is based.

We have had a very robust governance structure that has been in place over the last 18 months. We have also carried out robust testing and exercising. We started that with local officers—frontline sergeants and constables who will be policing that area—and had what we refer to as a tabletop exercise at that level. We then took that internally to police-only wider tabletop exercising. That included colleagues in CJSD, our criminal



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justice department; colleagues in C3, which is Contact, Command and Control; and colleagues in Crime, in terms of crime management.

We did that at that level. We then took that testing one stage further into a multi-agency context, where we had partners involved as well. At each level, local officers have been able to influence not necessarily the approach, but the clarity of how we explained what we were asking of them. SMARTEU was very helpful in leading those tabletop exercises for us. That helped us, because when you work in a space it can be clear to you but may not be clear to other people. From the feedback that I have had from local officers, I am confident there is a clear understanding of the guidance.

Chair: That is good to know. Thank you very much.

Q109 **Maureen Burke:** Thank you for coming along today. A lot of what I was going to ask has been covered in what you were speaking about, but one question I had was about the local people in the area: have you had many complaints from them about the issues, if any, have been happening there? I was also going to ask about the impact on the level of resources that you have: is that enough? I think everything else I was going to ask has been covered.

Superintendent McEwan: In terms of local people, at a point in time in the stages of the implementation, towards the end, we supported partners in Glasgow City health and social care partnership in their community engagement, because there were questions for police around how we would continue to police the local area, and we felt it was important for us to go along and support that so that people could get those messages straight and direct from us.

Local officers, and particularly community officers, continue to engage with the community. You will know that that is an essential part of the policing model in Scotland. What is good about that is that it allows us to meet community needs, whatever they may be, in the area around the Thistle or elsewhere.

As you would expect, in preparation for today, before I came here I spoke with the leadership in the division to understand whether there were any ongoing concerns. There were none that they were aware of, but it is important that we remain engaged and remain open. The Lord Advocate spoke earlier this morning about the evaluation, which is important, and that we will contribute to that evaluation so that it can be robust and helpful.

Maureen Burke: That is really good; thanks for that. I know it was quite problematic at the start to get community engagement, but it is good to know that that is still going on.

Q110 **Kirsteen Sullivan:** Thank you very much for coming along today. I think you have already touched upon this in your previous answer, but do you



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have any concerns regarding the policing of the Thistle and the surrounding community? Are there any issues that you feel have not really been addressed as yet, or any issues that have arisen that have not perhaps been anticipated?

Superintendent McEwan: It is a good question, because when you are dealing with something that is new and different you try to anticipate every potential scenario, and that was part of the testing and exercising. That was important so that we could be confident that the guidance we were giving to officers was helpful to them—and not only to them, but to the proposers and to the wider community, so that everybody had a clear understanding of our approach.

Thus far I am not conscious of any challenges. There is nothing that we found to be insurmountable in terms of the guidance and the approach. The statement of prosecution policy that the Lord Advocate set out is very clear and limited, as she mentioned this morning. For me and for my colleagues in policing that has been helpful, because it allows us to have an approach that is specific, limited and very clear for officers.

Q111 **Kirsteen Sullivan:** Without an exclusion, what is to stop officers from identifying and intercepting regular visitors of the Thistle who they know are likely to be in possession of a controlled substance?

Superintendent McEwan: Essentially, reasonable grounds is what would prevent that. Somebody being on their way to the facility—that on its own would not offer an officer reasonable grounds to stop and search that person. That has been another important message for officers in terms of the guidance. On its own, it would not offer reasonable grounds, nor would it offer a defence to somebody who was found in possession of drugs on their way to the facility.

If I can make that important distinction, if an officer did have reasonable grounds to search somebody and found them to be in possession of a suspected controlled drug, somebody's assertion that they were going to the facility would not provide a defence and the officer would deal with it in the same way. To your specific question, no, there would be no reasonable grounds on that basis alone.

A further important message—not just for officers, but for the wider community and for people who will use the service—is that it is not the intention or the aim of Police Scotland to target people who are using the facility. In my view, that would not be in the public interest, and it would not be in our broader approach to drug-related deaths and harms. However, we will of course continue to operate within the law and the Misuse of Drugs Act as it is set out.

Q112 **Jack Rankin:** Thank you, Superintendent, for coming here today. How would you respond to concerns that without a full legal framework there may not be an equal and consistent application of policing?

Superintendent McEwan: I am not sure I understand the question.



Jack Rankin: It seems to me that the Advocate General in her prosecution advice has carved out a specific exemption in this instance. Some people would certainly have the perception that that means that the law is being applied differently in different areas of Scotland. They would have that perception at least, even if you might say that that is not the case or not your point of view.

Superintendent McEwan: We would not offer a view in terms of the legal framework or the statement made by the Lord Advocate. Our role is to operate within that framework as it exists. As I said earlier, the guidance that has been provided to us is very clear. It provides us with a clarity of understanding of what has been asked of Police Scotland and allows us to police the facility and the wider area in a way that is clear both for us and for the wider community. So no, we would not offer a view necessarily on that aspect.

Q113 **Jack Rankin:** Just to follow up on that clarity point: you consider it clear, but within the force, have any officers expressed any uncertainty on how to police that area, or do you think that that view is shared by all of your colleagues?

Superintendent McEwan: I am confident that colleagues share it. It is important to say that it is focused in a specific area. That has been helpful because it means that we have been able to do focused engagement with officers in that area. However, the guidance is national guidance. You will be familiar with the fact that it is a single service, and we do have the ability to move and deploy officers all over the country. It has also been important that that guidance is shared more widely for broader awareness. But no, I have every confidence that officers in the local area certainly understand and are clear as to what is being asked of them.

In policing, a core part of it is that officers who do have any need for support or guidance have that available to them in a number of different ways—for example through oversight from Contact, Command and Control, which has been very much part of the development of the guidance, and also through their first and second or senior line managers, who can provide dynamic guidance to them. There are a number of guardrails, I would say, but I have every confidence that officers are clear.

Q114 **Elaine Stewart:** My question was answered at the beginning; it was on unrelated incidents in the Thistle and how we would deal with them. As that has been answered, let me ask this: do you see the police officers building relationships within the community, with the staff within the facility, and with the users? Can they identify good relationships?

Superintendent McEwan: As I mentioned, Police Scotland has a community policing approach, and that has always been the sense. In initiatives like this, as you have set out, an important part of our role is to have good relationships with the people who work at the facility, the



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wider community and people who use the facility. There is a great benefit to that, because it allows us to meet local people and police the local area in a way that meets their needs.

My experience throughout being involved and engaging with partners and colleagues in G Division is that there has been a real benefit to this process. It has been a significant multi-agency process of engagement and working closely together to support the delivery of the pilot. I know from speaking to colleagues in G Division that the engagement they had with the local community allowed the local community to voice their opinions about the safer drug consumption facility, but also other things in the area that were challenging for them. To your overall point, I think it has been a benefit and a helpful exercise in that regard.

Q115 Chair: Superintendent McEwan, you mentioned that the data you collect in Police Scotland about incidents or activity around the vicinity of the Thistle would feed into the evaluation, if I understood you correctly. One of the UK drugs charities' releases has suggested that it is important that that data is recorded but also made publicly available. Will that information that you are collecting be shared publicly, or will it just feed into the evaluation?

Superintendent McEwan: It really depends on the type of data that is being discussed. A great deal of the data that we record goes into the public domain. I would use stop and search as an example of that: the stop-and-search data that we record right across the country is reported on publicly and is publicly available through dashboards, so there is a great deal of data available already.

Specifically, in terms of the evaluation, we are represented on the subgroup and will be able to support the evaluation with whatever data they feel is relevant and that we can provide. I would not be able to answer that question directly without understanding exactly what data but, in broad terms, I think it would be likely that we would be able to offer that.

Chair: That is great. That concludes our questioning this morning. Thank you very much for coming along; sincere apologies for the disruption, which seems to have ended just as we have, but thank you very much for putting up with that and for answering the questions so directly.