

Call for Evidence

Problem drug use in Scotland follow up,
Glasgow's Safer Drug Consumption Facility
[Inquiry](#)

February 2025

Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Criminal Law Committee welcomes the opportunity to consider and respond to the Scottish Affairs Committee of the UK Parliament Inquiry: Problem drug use in Scotland follow-up: Glasgow's Safer Drug Consumption Facility. The Committee has the following comments to put forward for consideration.

General Comment

We note that the Inquiry is interested in capturing views on the legal and policy implications on the recently-opened Safer Drug Consumption Facility (SDCF) in Glasgow.

In April 2019, the Committee responded to the Scottish Affairs Committee's call for [written evidence on Use and Misuse of Drugs in Scotland](#). In our response, we provided some comments on the policy aims of the Scottish Government's national drug strategy called "The Road to Recovery" launched in 2008, and highlighted the need to address problems such as the drug supply in prisons and the number of drug-related deaths in Scotland. We did not comment on social policy matters as they were not in the scope of the Committee's expertise.

We maintain the approach taken in our previous response. Accordingly, our comments will be focused on the question 2 of the inquiry related to the legal aspects of the SDCF in Glasgow.

Questionnaire

- Why is a pilot Safer Drug Consumption Facility (SDCF) being opened in Glasgow and how is it intended to reduce harm from problem drug use in the area?

We do not have any views on this question.

• What is the current legal position of the SDCF in Glasgow?

- Is the SDCF's current legal position sustainable to enable the effective operation of the facility in the long term?
- How would the Lord Advocate's decision that it would not be in the public interest to prosecute users or facilitators of Glasgow's SDCF operate in practice?
- What issues could be presented by the facility's current legal position, including in respect of civil liability?
- What implications does the facility have for local policing?

On September 2023, the Lord Advocate announced the publication of a prosecution policy that provides that it would not be in the public interest to prosecute drug users for possession offences committed within safer drugs consumption facilities. The Lord Advocate indicated the "requested statement will not extend to any criminal offence other than possession of controlled substances, contrary to section 5(2) of the Misuse of Drugs Act 1971. It does not amount to an exclusion zone whereby a range of criminality is tolerated"¹.

The statement also indicated that Police Scotland would still maintain its power to ensure that the wider community and people using and operating the SDCF can be kept safe.

On January 2025, the Lord Advocate published a [guideline in relation to the reporting of offences detected within the Glasgow Health and Social Care Supervised Drug Consumption Facility](#). The guideline indicates that:

- In any circumstance, drugs seized by the Police will be returned to an individual
- The prosecution policy will not be extended to other context different from the SDCF
- There are not "tolerance zones" in the facility's surrounding areas
- The prosecution policy will not apply "where the possession of the controlled substance is indicative of an individual's intention to supply (or be concerned in the supply) of a controlled substance.

We note similarities between the guidelines mentioned above and other guidelines published by the Lord Advocate regarding prostitution offences and sexual offences committed by older children.

In October 2012, the Lord Advocate published [guidelines to chief constables on the enforcement of soliciting and loitering offences by purchasers](#). Those guidelines aimed to enforce the Prostitution (Public Places) Scotland Act, criminalising the actions of the purchasers

¹ Crown Office & Procurator Fiscal Service. [Statement on pilot safer drug consumption facility](#). Date of published 11 Sep 2023.

and considering “the needs of communities by applying appropriate local criteria”. The guidelines also indicate:

“While the detail of local strategies may vary, the public interest demands an approach which:-

- seeks to tackle demand through enforcement against purchasers;
- minimises the impact of street prostitution on the communities affected by it; and
- does not increase the risk to vulnerable people and to communities through unplanned displacement”.

After that, the Lord Advocate’s published [guidelines on offences committed by children](#). The document defines the categories of offences that require to be jointly reported to the Procurator Fiscal and the Children’s Reporter. The guidelines indicates that not all the offences of older children engaging in sexual conduct with each other² should be prosecuted. The guidelines indicate that factors such as the age of the parties involved, the use of violence or disinhibitory substances, and imbalance of power should be considered when taking the decision to make a joint report.

In both examples, the Lord Advocate used their prosecutorial discretion to determine the circumstances in which the prosecution of certain offences would not be in the public interest, considering factors such as the vulnerability of the population engaged in the criminal conduct and the impact that the type of criminality could have in the communities involved. The decision taken regarding the Glasgow’s SDCF seems to be consistent with the rationale that justified the guidelines referred below.

We also consider that the use of fiscal fines could have an important value in drug consumption cases. This is an alternative to prosecution in which the procurator fiscal can offer a fine between £50 and £500. According to the [Policy Memorandum](#) of the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill -currently at Stage 1 at the Scottish Parliament-, when fiscal fines are offered, they “represent a proportionate response to the offending behaviour” and “enables cases to be resolved without the need for court procedure and associated appearances at court, which gives the courts and prosecutors more time to deal with more serious cases”.

We note some similarities between the approach taken by the Lord Advocate regarding the Glasgow SDCF and the [Canadian supervised consumption sites and services](#). [Section 56\(1\) of the Controlled Drugs and Substances Act](#) allows to the Canadian Minister of Health to provide exemptions from the application of the Act and its regulations when it is required for medical or scientific purposes or is otherwise in the public interest. Using that power, supervised consumption sites were set up to reduce the number of deaths caused by overdose and provide pathways to treatment³.

² Section 37 Sexual Offences (Scotland) Act 2009.

³ [Government of Canada. Supervised consumption explained: types of sites and services](#).

^ . What „does „a „longterm „sustainable „legal „framework „for „a „SDCF „look „like?

We do not have any views on this question.

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