



The Scottish Parliament
Pàrlamaid na h-Alba

Andrew Tregoning,
The Faculty of Advocates

Health and Sport Committee
T3.60
The Scottish Parliament
Edinburgh
EH99 1SP
Tel: 0131 348 5410
Calls via RNID Typetalk: 18001 0131 348 5224

Via email only

Email: healthandsport@parliament.scot

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Dear Andrew,

Health and Sport Committee consideration of the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Bill

On the 9 June 2020, the Committee heard evidence from Filippo Capaldi, Detective Superintendent at Police Scotland and Gillian Mawdsley, Secretary to the Criminal Law Committee at the Law Society of Scotland in relation to the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Bill.

Following the session, the Committee are keen to hear the Faculty of Advocates views on the issues highlighted and topics discussed during the session.

The following resources are now available:

- [The Official Report](#)
- [Broadcast recording of the session](#)

In Annexe A, we enclose below a list of questions that we put to Mr Capaldi and Ms Mawdsley during the session. We are particularly interested to hear your views on the evidence presented in relation to these questions, to ascertain if there are areas of agreement or disagreement and if you have any additional evidence to add.

On behalf of the Committee, I request a response by Thursday 18 June 2020 and I look forward to hearing from you.

Yours sincerely

A handwritten signature in blue ink that reads "Lewis Macdonald". The signature is written in a cursive style with a prominent underline for the letter 'L'.

Lewis Macdonald
Convener, Health and Sport Committee

Annexe A

List of questions from the Health and Sport Committee meeting on 9 June 2020

Please note, you do not need to reply to each question unless you have additional evidence to add to the evidence from the session.

Reporting rates

1. Do you consider that the Scottish Government's estimates of the increase in demand from the implementation of the Bill, as set out in the Financial Memorandum, are reasonable?
2. Do you believe that, in light of the COVID-19 pandemic and a possible rise in domestic abuse, the estimates in the Financial Memorandum should be revisited?
3. Do you consider that fewer offences will be reported to the police as a result of people having the option to self-refer for a forensic medical examination?
4. When victims contact the police about an offence should they be informed about the option of self-referral for forensic medical examination?

The retention service

5. Do you have any concerns about the type of evidence that should be collected and retained by health boards in cases of self-referral?
6. Do you believe important evidence could be lost if health boards are not able to store all evidence?
7. What is your view on the need for a national storage standard across all NHS Boards to ensure consistency in storage and compliance with evidential considerations?
8. What information should be given to people about the implications of choosing a self-referral examination rather than reporting the incident to the police?
9. In cases of self-referral, should victims be able to request that evidence collected in the forensic medical examination be destroyed? Should witnesses have a cooling-off period before evidence is destroyed?
10. In cases of self-referral when should victims be notified that the evidence from their forensic medical examination will be destroyed? - Should they be able to request that their samples are retained?

Storage of items

11. Do you have a view on the storage of evidence, such as clothing and duvets, by the Health Board?

12. Should the Health Board be required to store this type of evidence? If not, what would the implications of this be?

Timescales for retention

13. Do you have a view on the retention period for evidence in cases of self-referral?

14. Are you content that timescales for retention will not be specified in the Bill but set by Scottish Ministers in regulations (subject to affirmative procedure)?

Transfer of evidence

15. What is your view on the transfer of evidence from health boards?

16. Do you have any concerns related to the provision whereby it will not be able to access evidence in self-referral cases unless a report of the incident is made by the victim?

17. Would there be any advantage of Police Scotland being made aware that a self-referred forensic medical examination had taken place, in terms of crime trend analysis?

18. What would be the advantages and disadvantages of an anonymous DNA database? Is this something you would welcome?

Admissibility of evidence

19. Are you confident that the evidence collected and stored by health boards in cases of self-referral will be robust?

20. What are your concerns that health board professionals may lack training, in handling forensic samples and reports, potentially leading to the integrity of samples and reports being compromised?

Equality

21. Is there a risk that the legislation may discriminate against people with learning disability who wish to access self-referral services?

22. Are there any possible issues relating to forensic medical examination of vulnerable adults?

Advocacy

23. What role could/should advocacy play in supporting victims of rape and sexual offences?

24. Do you believe that advocacy services should be available to all victims of rape and sexual offences?

25. Would you welcome a statutory right to independent advocacy?