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Secure care and prison places for children and young people in Scotland



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Justice Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.



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Introduction

1. At its meeting on 11 April 2019, the Justice Committee agreed to carry out a short inquiry to look at key issues relating to the provision of mental health services and secure care places for children and young people in Scotland, the current and future capacity and structure of secure care. The inquiry also touches upon the care of young people imprisoned in HMP YOI Polmont.
2. Our inquiry focused on the following questions:
 1. What is the current provision of secure accommodation in Scotland?
 2. What is the current level of cross-border placements in secure care units?
 3. What are the views on the structure, funding and sustainability of the secure care units in Scotland?
 4. What are the views on the development of services and training at HMP YOI Polmont?
 5. How does HMP YOI Polmont interact with secure care units in Scotland in terms of the transfer of young people in custody?
 6. How has the NHS/Scottish Prison Service developed youth mental health and well-being strategy in secure care units or in prison custody?
 7. How are Scotland's international human rights obligations under the UN Convention on the Rights of the Child being met in relation secure care units and HMP YOI Polmont?
 8. What are the views on the work of the expert review of mental health and well-being for younger people in custody?
3. Our inquiry comes in advance of the [Independent Care Review](#), chaired by Fiona Duncan, which is due to make recommendations in Spring 2020. One of the areas that the Review is looking at is secure care.
4. The Committee's inquiry followed the deaths in custody at HMP YOI Polmont of William Brown (16), also known as William Lindsay, and Katie Allan (21). According to press reports, there have been 11 deaths of young people in Polmont since 2005.¹
5. This inquiry does not look into the specific circumstances of the deaths of either Mr Brown (Lindsay) or Ms Allan. These are matters for the judicial process through the Fatal Accident Inquiry (FAI) system. Nevertheless, some of the issues raised by their deaths such as the availability of spaces in the secure care system and the care of people incarcerated at HMP YOI are important components of our inquiry.
6. The Committee reiterates its condolences to the families of both of these young people, and to the families and friends of all of those who have taken their lives during their care or imprisonment.

Evidence taken

7. The Committee held its first oral evidence session on 28 May 2019 and took evidence from Wendy Sinclair-Gieben, HM Chief Inspector of Prisons for Scotland and Dr Helen Smith, Consultant Forensic Child and Adolescent Psychiatrist, NHS West of Scotland Child and Adolescent Mental Health Service. That session focussed on the [recently published report](#) by Wendy Sinclair-Gieben on mental health services for young people at HMP YOI Polmont.
8. Subsequently, the Committee took evidence on the same day from Alison Gough of the Good Shepherd Centre; Audrey Baird of Kibble Education and Care Centre; David Mitchell of Rossie Young People's Trust, Carol Dearie of St Mary's Kenmure and Colin McConnell and Lesley McDowall of the Scottish Prison Service.
9. At its second evidence taking session on 11 June 2019, the Committee took oral evidence from Karen Dyball, Head of Children's Services (North West), Glasgow City Health and Social Care Partnership; Deborah Nolan, Practice Development Adviser, Centre for Youth and Criminal Justice, and Kirsten Hogg, Head of Policy, Barnardo's Scotland.
10. Finally, on 10 September, the Committee held its final evidence session, hearing from Hugh Carr and Janine Hunt of Scotland Excel, Nicola Dickie, Chief Officer for Children and Young People, COSLA, and Nick Hobbs, Head of Advice and Investigations, Children and Young People's Commissioner Scotland.
11. The Committee is also grateful to all of these bodies and individuals who gave [written evidence](#) to the Committee as part of this inquiry.

Background to the provision of secure care in Scotland and essential facts and figures

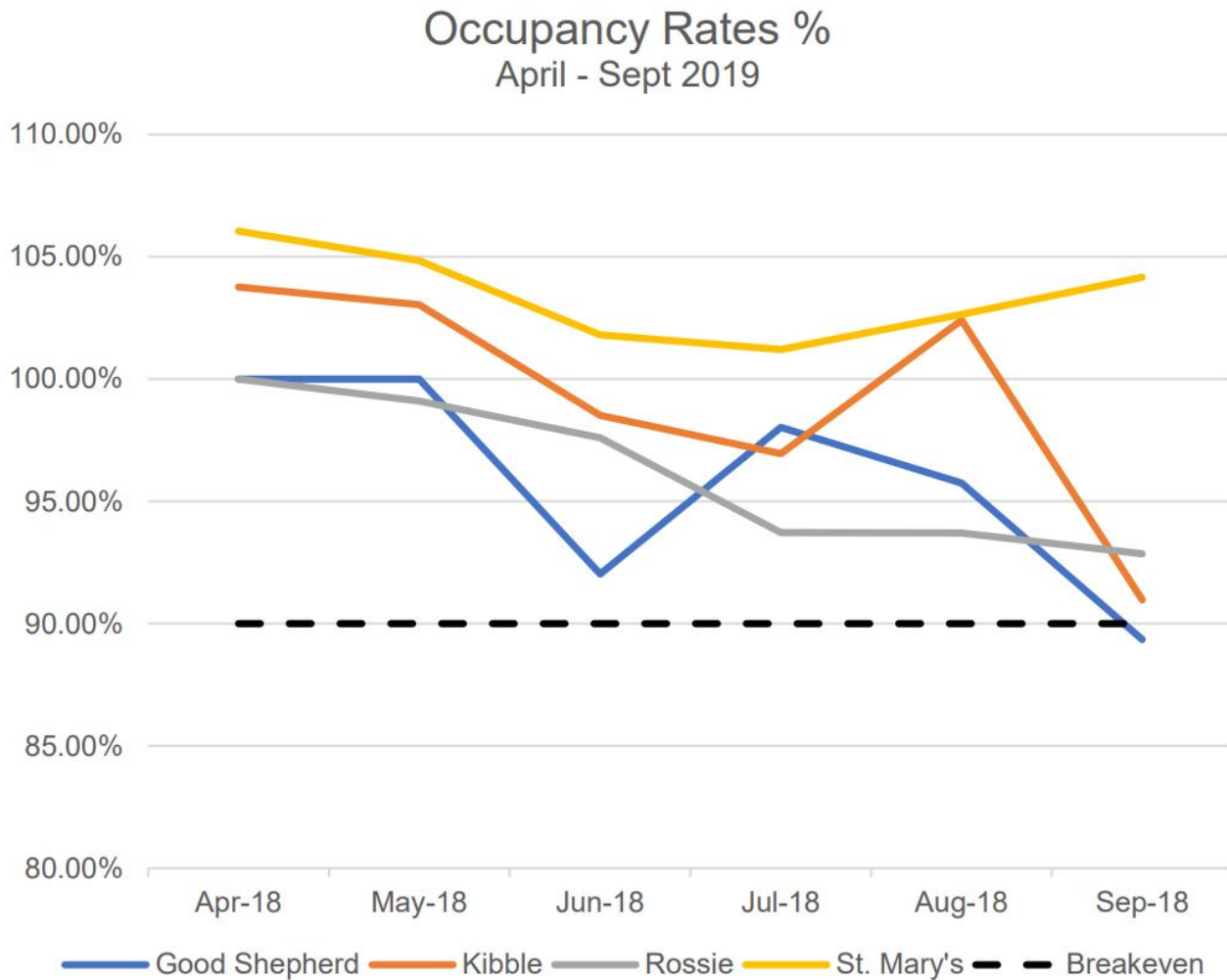
12. There are current five secure care units in Scotland: Good Shepherd in Bishopton, Kibble in Paisley, Rossie in Montrose, St Mary's Kenmure in Bishopbriggs, and Edinburgh Secure Services unit at Howdenhall in Edinburgh. The latter of these is owned by the City of Edinburgh Council whereas the others are commercial entities or registered charities.
13. In the prison estate, HMP YOI Polmont is Scotland's national holding facility for male young offenders aged between 16 - 21 years of age. Since 2016, HMP YOI Polmont had also held female prisoners while renovation work took place at HMP YOI Cornton Vale in nearby Stirling.

Numbers in secure care and custody

14. There has been a substantial reduction in the numbers of children in custody in Scotland in recent years. For example, on 30 June 2006, there were 223 children aged 16 and 17 in custody in Scotland and, by 30 June 2017, that number had fallen to 51 (comprising 50 boys and one girl). Almost all young people aged over 16 in custody in Scotland are cared for at HMP YOI Polmont, with the exceptions being small numbers of young women being cared for in HMP YOI Grampian.ⁱ
15. In supplementary evidence to the Committee, Scotland Excel provided [occupancy rates](#) for 6 month period in 2019 (April to September). The occupancy figures provided showed that, across 4 of the secure care provides, monthly average occupancy rates ranged between 89.4% and 106% at various points between during April and September 2019; see Figure 1 below.

ⁱ Scottish Government Progressing Children's human rights (2018): 8.8 Young Offenders Institutions: <https://www.gov.scot/publications/progressing-human-rights-children-scotland-report-2015-2018/pages/11/>

Figure 1: Monthly average occupancy rates



Source: Scotland Excel

16. Scottish Government policy is that, whenever possible, children under the age of 16 are not held in either in a Young Offenders Institute (YOI), or in prison, but serve their sentence in a secure unit. No child under the age of 16 has been detained in either a prison or a young offenders' institution in Scotland in the last 8 years.
17. Young people aged 16 and 17 who are sentenced to detention in a YOI are held separately from those aged 18 and over, in recognition of the vulnerability and significant care requirements of these young people. There are, however, occasions where it has been determined to be in the child's best interests that there should not be full separation.
18. The Scottish Government has stated that there have recently been so few girls under age 18 in custody in Scotland (most often none and often only one or two) that their full separation from those aged 18 and over would result in a greatly impoverished learning and social environment. In these cases, contacts are carefully considered and monitored, taking account of individual needs, circumstances and well-being.

Secure Care Units and cross-border placements

19. Secure care is a form of residential accommodation which restricts the liberty of children and young people. This type of care provides intensive support and safe boundaries that enable highly vulnerable children to re-engage and move forward positively with their lives and within their communities. Secure care is intended to be a nurturing environment that is able to address specific needs and behaviours whilst providing care, including health and education.
20. Young people can be placed in secure care through the Children's Hearings System (CHS), on welfare grounds or through the courts on sentence or remand. Over 80% of all placements are made through the CHS.
21. There are currently 84 secure beds in Scotland provided across five dedicated units. There are four independent charitable organisations: Good Shepherd in Bishopton (18 beds), Kibble in Paisley (18 Beds), Rossie in Montrose (18 beds), St Mary's in Bishopbriggs (24 beds), and Edinburgh Secure Services unit with six beds at Howdenhall in Edinburgh.
22. All five units work independently, however St Mary's and the Good Shepherd have the same management services from the CORA Foundation, which is a catholic-based registered charity.
23. In November 2016, the Scottish Government wrote to the Justice Committee in relation to the cross-border placements of children from England in Scottish secure care units.ⁱⁱ This followed an English High Court ruling in September 2016 which ruled that:
 - a judge in England cannot make a secure accommodation order where the child is to be placed in Scotland;
 - the 'inherent jurisdiction' of the High Court can be used to place English children in secure accommodation in Scotland; and
 - if an order placing a child in secure accommodation in Scotland is made by an English judge, this order cannot be recognised and enforced in Scotland.
24. The result of this judgement led to the extending by the UK Parliament of the provisions of the Children and Social Work Act 2017 to Scotland.ⁱⁱⁱ As a result of legislating in a devolved area, the Scottish Parliament approved a Legislative Consent Memorandum in December 2016 in relation to the placing of children from England in Scottish secure care units.^{iv}

ii Letter from the Scottish Government on secure care units, 21 November 2016:
https://www.parliament.scot/S5_JusticeCommittee/General%20Documents/20161121_Letter_from_Mark_McD_to_Convener_Secure_Border_Controls.pdf

iii Children and Social Work Act 2017 (s10): <http://www.legislation.gov.uk/ukpga/2017/16/part/1/chapter/1/crossheading/secure-accommodation>

iv Legislative Consent Memorandum on the Children and Social Work Bill:
<https://publications.parliament.uk/pa/bills/cbill/2016-2017/0121/LCM-S05-7.pdf>

Demand, policy and funding of secure care

25. The [Secure Care in Scotland: Looking Ahead](#) report was published by the Centre for Youth and Criminal Justice (CYCJ) on 28 October 2016. The report calls for a:
 - Strategic vision and direction for secure care in Scotland;
 - Statement on the place of secure care in the continuum of responses;
 - Secure Care National Board;
 - National Standards Framework for Secure Care; and
 - Commissioning board to consider short- and long-term funding.
26. In response, the Scottish Government's 2018 Programme for Government made the commitments to:
 - Develop Secure Care National Standards to improve experiences and outcomes for our most vulnerable young people;
 - Establish a transformative model for secure care in Scotland through a new Secure Care Strategic Board, which will report by end 2018.
27. The Secure Care Strategic Board met for the first time on 6 October 2017. The Board has been established to lead the development of a strategic approach to secure care in Scotland. Its aim is to provide a clear set of strategic proposals and a recommended approach to commissioning which fulfils medium and longer term needs of secure provision in Scotland.
28. The four independent charitable secure care units (Kibble, St Mary's, Good Sheppard and Rossie) were awarded a contract by Scotland Excel on behalf of Scottish local authorities, and the Scottish Government 1 April 2017. That contract expires on 31 March 2020. Edinburgh Secure Unit is not part of the contract and is run and managed directly by City of Edinburgh Council.
29. The demand and supply of secure care is recognised to be a complex and shifting landscape, and it is widely accepted the current funding model for secure units in Scotland is not sustainable in the long term.
30. Secure units are funded almost exclusively from their bed rate; if units are not operating at 90% capacity or above then they are not meeting their business plan objective for income. If units are consistently under-occupied there is always the risk of an unplanned closure.
31. Recently, the high number of cross-border placements from England has been sustaining three of the four independent charitable secure units in Scotland. Without the cross-border placements, three units would be in financial difficulty and at risk of unplanned closure.
32. Recent figures indicate there were 32 cross-border placements spread over three units: Good Shepherd, Rossie and St Mary's. Kibble has no English young people in their secure unit.

33. The number of secure beds in Scotland has fallen from 124 in 2009 to 84 in 2017. In 2017/18, there was a 29% decline in the use of secure care by Scottish local authorities.

HMP YOI Polmont

34. HMP YOI Polmont is the main Young Offenders Institute in Scotland and is designed to hold up to 760 inmates between the ages of 16 and 21. It is operated by the Scottish Prison Service (SPS) and the current Governor is Brenda Stewart.
35. The SPS has been involved in an ongoing programme of improvements at HMP YOI Polmont aimed at improving the life chances of young people through changes to the way that young people are engaged and supported. These changes include collaborative work with Education Scotland, and the wider statutory and voluntary sectors, to create a skills development and learning environment.
36. These changes also involve investment in the training and development of SPS staff to engage with young men at HMP YOI Polmont and widening the range of opportunities for them to gain relevant skills, including parenting. The SPS has identified parenting skills as a hugely important area of focus for young male offenders. Research in 2010 suggested that almost one in three young men in HMP YOI Polmont were fathers, or expectant fathers.
37. There is also growing engagement between the four independent charitable secure care units and HMP YOI Polmont, in terms of liaising on the transfer of young people serving a custodial sentence to post-16 custody facilities in HMP YOI Polmont.

Mental health care in prisons

38. In 2007, the Scottish Government established the Prison Healthcare Advisory Board to advise on the feasibility of transferring prison health care from the Scottish Prison Service to NHS Scotland. The aim of this work was to ensure that prisoners received healthcare equivalent to that of the wider community in Scotland.
39. As a result of this work, on 1 November 2011, responsibility for the provision of all health care in prisons was transferred from the SPS to NHS Scotland.
40. In 2018, the Scottish Government stated that its Mental Health Strategy commits to fund 800 additional mental health workers in key settings, including prisons. Funding for this commitment will rise to £35 million by 2022. The Scottish Government said that it had been working with the Chief Officers of Integration Joint Boards on the development of this action. This included obtaining further detailed workforce plans to provide information on workforce allocation, location of workforce for 2018-19 and details on the trajectory toward the 800 total by 2021-22. In addition, work is underway to review the evidence base for effective interventions in relation to mental health in a prison setting, with a view to informing service delivery by local partners.

41. In November 2018, the Scottish Government published its strategy to improve health by preventing and reducing alcohol and drug use, harm and related deaths.
42. The strategy, [Drug and Alcohol Strategy Rights, Respect and Recovery](#), includes a section on the importance of ensuring that people who come in to contact with justice agencies are provided with the right support from appropriate services, with the aim of addressing the health-related causes of reoffending. The Strategy also sets out what is expected in terms of the provision of alcohol and drugs services in prison and the support that should be in place on release.
43. Evidence provided by SPICe as briefing for the Committee highlighted the relative proportions of mental health casework for young people, on a needs-based analysis, for psychological service provision. There is a marked difference in the percentage of cases of anxiety (94%), stress (94%), drugs (90%) and alcohol (94%) at HMP YOI Polmont, over the adult prison comparison.
44. On 17 January 2019, the Cabinet Secretary for Justice, Humza Yousaf, wrote to update the Justice Committee on the terms of reference for its recently announced [Expert Review of Mental Health and well-being Support for Young People in Custody](#) under the auspices of HMIPS.
45. The Scottish Government confirmed that consultant child and adolescent psychiatrist Dr Helen Smith would work with HMIPS to oversee the independent expert review of mental health and well-being support for young people in custody. Dr Smith is the clinical lead for West of Scotland Child and Adolescent Mental Health Service and Honorary Senior Clinical Lecturer at the University of Glasgow.
46. The [final report](#) was published in May 2019.

Key issues during our Inquiry

47. This inquiry focuses on the provision of mental health services and secure care places for children and young people in Scotland, the current and future capacity and structure of secure care. The inquiry also touches upon the care of young people incarcerated in HMP YOI Polmont.
48. The following section of the report sets out the key issues that have emerged during our evidence-taking. Some of these related to secure care and some of these to the prison estate. Additionally, some such as the transition to prison from secure care are matters for both parts of the system. This section is structured accordingly.

Secure Care

Mental health and well-being requirements, including support for trauma and ACEs

49. According to a survey produced for the Centre for Youth and Criminal Justice (CYCJ), there are significant levels of mental ill-health to be found within the secure care estate in Scotland. Its survey indicated that, amongst the Scottish population, 35% of children had attempted suicide in the year prior to admission, with 53% experiencing suicidal ideation^v. 22% had received a trauma diagnosis over that timeframe and 45% had experienced sexual exploitation; an issue that may require specialist counselling and support. Furthermore, staff within secure care noted that in 24% of cases, there was a suspected, undiagnosed mental health concern which they believed - based on symptoms and presentation - may include depression, Post Traumatic Stress Disorder (PTSD), violent fantasies and personality disorders. Despite this, only 36% of children within secure care had received support from the NHS's Child and Adolescent Mental Health Service (CAMHS) and 4% from Forensic CAMHS in the year prior to admission^{vi}.
50. Dr Helen Smith of NHS West of Scotland's Child and Adolescent Mental Health Service said that "there are more adverse childhood experiences—young people from traumatic backgrounds and with trauma histories" and that "there had been a big increase in the number of young people with mental health difficulties" in the secure care estate. She added that, "whether they would all meet the criteria for having a mental health diagnosis is a different question, but I suggest that all the young people who come into custody have difficulties of one type or another." ²
51. Alison Gough of The Good Shepherd Centre - one of Scotland's secure care units - said that for her facility, half of the children arriving at the unit had expressed thoughts about ending their lives and a third of young people had actually attempted to end their lives in the year prior to coming into secure care. A high proportion of young people in her unit had been diagnosed with a mental illness either previously

^v Suicidal thoughts, or suicidal ideation, means thinking about or planning suicide.

^{vi} Forensic CAMHS is a free specialist forensic CAMHS service designed to provide consultation to professionals who are working with young people.

or were receiving treatment, and exposure to and involvement in interpersonal violence was a significant feature.³

52. The Good Shepherd Centre were critical of the current contractual model in terms of its ability to provide mental health care support. Their written submission states—

” There is in reality no nationally agreed model of service in place to best respond to the mental health and well-being needs of young people in secure care, and the commissioning and funding arrangements involve a contract framework for the spot purchase of individual placements for young people by Scottish Government and local authorities (through an ‘individual placement agreement’) depending on the route into secure care for the individual young person. The NHS is not a contributor to this contract framework. Health services are delivered by NHS Scotland in HMP and YOI Polmont within an agreed framework, this is not the case for the secure care centres.⁴

53. They said there is no clarity under the terms of the contract framework, about responsibilities and funding for mental health care and treatment and there are differences in how the centres themselves deliver and commission specialist mental health and well-being supports and in how the NHS areas and CAMHS teams respond when young people are placed in a different NHS area. In their view, this can be highly problematic in that the nature (spot purchase weekly fee) of the current contract framework can restrict flexibility, particularly for the smaller organisations where our core service offer is secure care.

54. David Mitchell of the Rossie Young People’s Trust - another of Scotland’s secure care units - indicated that some young people in his care have been admitted to Rossie with more than 10 examples of Adverse Childhood Experiences (ACEs)^{vii}. He added—

” ... ACEs impact on neurological systems, on behaviour, and on how our young people learn. We spend a great deal of time in secure care and have learned that, when we are accommodating and receiving young people, a lot of the time we are calming down what we call toxic shock, because these young people are so alert. They are hyper-vigilant at times because of the traumatic experience that they have encountered, and they are also significantly adversely affected by ACEs. That has implications for any system that admits young people.

Source: Justice Committee 28 May 2019, David Mitchell (Rossie Young People’s Trust), contrib. 134⁵

55. The evidence the Committee heard during our short inquiry, including that above, paints a concerning picture, with significant numbers of children and young people in our secure care with increasingly complex mental health and well-being needs, many who have been subjected to trauma and a wide variety of adverse childhood

vii Adverse Childhood Experiences (ACEs) are stressful or traumatic experiences that can have a huge impact on children and young people throughout their lives. The ten widely recognised ACEs, as identified in a US study from the 1990s, are: Abuse: (physical, sexual or verbal), Neglect (emotional and physical), Growing up in a household where: there are adults with alcohol and drug use problems, there are adults with mental health problems, there is domestic violence, there are adults who have spent time in prison, or where parents have separated.

experiences. In his evidence to the Committee, Nick Hobbs of the Office of the Children and Young People's Commissioner Scotland indicated that he shared the Committee's concerns, stating—

” ... we have concerns that children need to be provided with facilities and services that meet their mental health needs and ensure that their right to health is properly respected. We need to make sure that the process through which children are deprived of their liberty and the decisions that are taken recognise and understand that those children are rights holders who have, often, experienced trauma and adverse childhood experiences and are often struggling with issues including mental health issues.

Therefore, the decision-making process—from the police, the children's reporter, the children's hearings system and the sheriff all the way through to the Crown Office and Procurator Fiscal Service—needs to reflect and understand the traumatic experiences that the children have undergone. When we need to detain children, we must make sure that the places where we detain them have appropriate, regular and frequent access to mental healthcare provision.

Source: Justice Committee 10 September 2019 [Draft], Nick Hobbs (Office of the Children and Young People's Commissioner Scotland), contrib. 5⁶

56. Similarly, Nicola Dickie, chief officer for children and young people at the Convention of Scottish Local Authorities (COSLA) shared Mr Hobb's view that there is an issue with children and young people's access to the right mental health support. She indicated that some work was already underway in the Scottish Government and by COSLA following a [review](#) conducted by Dame Denise Coia.⁷ In her first recommendation, Dame Denise stated that in order to improve services and give young people the care they need, the focus must be on stronger prevention and early intervention, more generic, community-based care so specialist services are freed up for the people who need them most, and better information to the public about where they can get help and support.
57. In order to improve the situation regarding mental health, well-being, trauma and other support in the secure care estate, Barnardo's Scotland suggest a different overall approach be taken. In its view, support for mental health and well-being should not be restricted only to diagnosable mental health conditions. Barnardo's stated that many of the young people its works with require support with their mental health and well-being around issues stemming from their experiences of trauma, bereavement and loss as well.⁸

Availability of Child and Adolescent Mental Health Service (CAMHS)

58. CAMHS is used as a term for all services that work with children and young people who have difficulties with their emotional or behavioural well-being. Local areas have a number of different support services available. In Scotland, such services are provided in relation to HMP YOI Polmont via the NHS Forth Valley. This is not the case for the secure care estate where service provision depends on the local health board.
59. As the Good Shepherd Centre stated—

” Three of the four contracted secure care centres are based within the Greater Glasgow and Clyde Health Board area [...] But there are still varying approaches by CAMHS areas and some Health Board areas do not provide CAMHS for young people aged between 16 and 18. This can make transition planning with and for young people very difficult. The in-reach of CAMHS to young people in secure care remains variable and there are tensions and disputes across health board and local authority boundaries in relation to the funding and provision of care.

60. Dr Smith told the Committee that in relation to Forensic CAMHS, there is only one team in Glasgow that provides that service and there is no other provision in other parts of Scotland. She stated, "if you are a young person in Aberdeen, you do not get the same level of service that you would get if you were in Glasgow." ⁹

61. This point was also made by Nick Hobbs who said in relation to CAMHS services that they "present a real challenge, because some of the support that we would hope to have in place for children that might reduce—or ultimately even prevent—the need for them to go into secure care cannot be provided at the moment." ¹⁰

62. Similarly, David Mitchell of the Rossie Young People's Trust said more broadly that there—

” ... are clearly geographical disparities. Certainly, in Angus we look with jealous regard to the secure care pathway that is being created by Dr Smith and the centres in Glasgow. It is clearly a better system: it ensures that there are key points of contact for referral; waiting times are short; and there is active in-reach by the consultant psychiatrist into centres, alongside CAMHS and forensic CAMHS staff.

Source: Justice Committee 28 May 2019, David Mitchell, contrib. 166¹¹

63. Mr Mitchell made reference to a case of a young person, who had extensive mental health needs, at the Rossie Young People's Trust who was first referred for help from CAHMS in August 2018 and who, by the time of their discharge in April 2019 had still not received any treatment; some eight months after first seeking support. ¹²

64. The continued availability of CAHMS services to a young person leaving care can also be problematic as Karen Dyball of the Glasgow City Health and Social Care Partnership explained. She noted that whilst in care, a young person could be provided with support from CAMHS but that, after they leave care, this service may no longer be available if they moved outside the health board area and another service provider would have to be found. ¹³

Social isolation in the secure care estate

65. As Wendy Sinclair-Gieben, Her Majesty's Chief Inspector of Prisons for Scotland, told the Committee, "social isolation is one of the key indicators of a person's being at risk". ¹⁴ As Dr Smith then explained, in general terms—

” ... when a person is left alone doing no activity, they are alone with their thoughts. They might ruminate and become quite negative in their thinking. There is no form of distraction whatsoever from those negative thoughts, so that can really impact on their mental state and how they feel about things. ¹⁵

66. For Carol Dearie of St Mary’s Kenmure - one of the secure care units in Scotland - the unit does not have young people on remand who can exempt themselves from participating fully in all activities and education. ¹⁶ She explained that there was a legal requirement placed on secure care units to fill in documentation if a young person refuses to participate in meaningful activities by returning to their room. This documentation needs to state reasons why this is the case.
67. A key difference then between the secure care estate and incarceration at HMP YOI Polmont (especially for remand prisoners) are the differences in the rules relating taking part in activities. Participation in such activities appears to be higher in secure care than in prison. That is not to say however, as the next section shows, that there are no social isolation concerns relating to secure care.

Lack of provision of secure care in remote or rural areas

68. As noted above, Scotland has five secure care units in Scotland: Good Shepherd in Bishopton, Kibble in Paisley, Rossie in Montrose, St Mary’s in Bishopbriggs, and Edinburgh Secure Services unit at Howdenhall in Edinburgh. This means that there are still significant areas of Scotland where travelling distances for family and friends are substantial, making visits more difficult for some and thereby potentially exacerbating social isolation.
69. As Scotland Excel - the national contracting body for secure care in Scotland - the current locations pose issues for local authorities not located within these regions, where there is often the preference for placing young people close to home to facilitate access with loved ones, social workers etc. ¹⁷ Giving evidence to the Committee, Hugh Carr of Scotland Excel, said—

” We are aware of that situation, and we work very closely with our local authorities to ensure that we take cognisance of where some of those issues may come into play and to understand what additional support they can provide to the families in order to minimise the negative impact on the young person.

Source: Justice Committee 10 September 2019 [Draft], Hugh Carr, contrib. 30¹⁸

70. In this context, Mr Carr referred to local authority assistance with travel costs and the use of technology such as Skype and Facetime for maintaining contact and to mitigate some of the difficulties and the need to physically travel.

Other services (health, dental, education, SLT etc.)

71. During its inquiry, the Committee also looked at the availability of other services in the secure care estate in addition to those for help with mental health issues and trauma support. These services include health, dental, speech and language therapy (SLT) and access to education and assistance with finding employment etc.

72. In his evidence, Hugh Kerr said that his organisation recognised that the required approach depends on the individual needs of the young person at a particular point in time. Scotland Excel says it ensures that there is adequate provision to enable the secure care providers to seek whatever additional support is required. He said that this is entirely down to the judgement of the staff in the secure care unit and the dialogue that they have with the local authority that has requested a placement for the child. He confirmed that "the contractual requirement is that it is ensured that a young person receives individual care, not a generic care package." ¹⁹
73. In supplementary written evidence, Scotland Excel provided details of the [model contract](#) for secure care services in Scotland. The contract makes reference to a provider being required to:
- Monitor the Child or Young Person's mental health and psychological well-being alongside the Purchaser.
 - Ensure the Child or Young Person has access to health services including general practice, dental care, and optical care and will work with their local health board to ensure these available. The Provider will ensure that the Child or Young Person receives a balanced diet and take part in regular exercise; and that as they grow older they have access to health information that enables them to make informed lifestyle choices.
74. It is clear, however, from evidence provided by the Royal College of Speech and Language Therapists (RCSLT) for example that not all needs appear to be met. The RCSLT said that its evidence showed that 60% plus of young people who offend have significant speech, language and communication needs. Despite this, it said "there is no ring fenced provision of Speech and Language Therapy in Secure Care in Scotland" and that many young people end up going without SLT in the face of significant communication needs. The body also pointed out that a further problem exists in that a young person may be on a waiting list for SLT for three or four months, then move to a different Secure Care facility and be back at the end of a new waiting list. ²⁰
75. To improve the situation, the RCSLT called for dedicated SLT provision in the Secure Care estate, further training on the benefits of SLT for staff and for the Scottish Government to promote the value of SLT to deliver a more holistic approach for the individual and increase the effectiveness of interventions for those whose communication skills are underdeveloped – including joint work with Clinical Psychologists. ²⁰
76. In their evidence to the Committee, Scotland Excel and COSLA both committed to a meeting with the RCSLT to see how the situation could be improved.
77. In relation to the provision of education, Nick Hobbs said—

- ” When we need to detain children, we should ensure that there is access to appropriate education. That issue has come up through the care review's discussions, and it comes up in our discussions with children and young people, who sometimes say that the system is not particularly well designed or set up to enable them to access education.

Issues include children being taken out of school to go to children's hearings, the availability of education in the secure units, and the ability to retain the educational provision that children accessed before they came into secure care. Those need to be part of the conversation about alternatives and the model of secure care provision that we are looking for. We need to apply the human rights standard and to consider whether the model is capable of delivering the child's right to education. We should bear it in mind that those children often have additional support needs, which presents issues and challenges in respect of ensuring that the right kind of educational provision is available.

Source: Justice Committee 10 September 2019 [Draft], Nick Hobbs, contrib. 22²¹

The current contractual model

78. The current contractual model in Scotland for the secure care estate is one managed by Scotland Excel. This organisation is a joint committee comprising all Scottish Councils formed in accordance with section 57 of the Local Government (Scotland) Act 1973. It was established in 2008 as a non-profit shared service. It has a £1.8 billion contract portfolio supporting the delivery of social care, construction, roads, transport, environment, corporate, education and ICT services as well as the procurement of secure care services.
79. In value terms, the estimated annual spend across the Scottish Government and councils for secure care is around £15.5 million. A such, contract awards exceed the legal threshold above which the procurement rules apply (currently set at £615,278) necessitating a formal contracting approach by Scotland Excel with external providers of these services.
80. According to Scotland Excel, the four independent providers it currently contracts with operate on a cost recovery basis, where the cost of providing care is recouped via the placement fee charged for the service. Within the Scotland Excel contract, this is based on a break-even rate of 90% occupancy. This means that where a provider's unit is below 90% occupied, their operating costs are not met. Conversely, where a provider is above 90% occupied, they generate additional income (surplus) above their operating costs.¹⁷ The Scotland Excel contract allows providers, on an annual basis, to choose to submit requests to Scotland Excel to increase their fees. Where this is sought, providers are required to submit a full budget breakdown.
81. Some of those currently providing secure care services under the current system were critical of the current arrangement. For example, the Good Shepherd secure care unit said—

” Despite the Vision, Values and Purpose statements agreed nationally through the Secure Care Strategic Board, and the drafting of national standards built on young people's accounts and calls for action and co-produced by a multi-agency group with significant contribution from children and young people in secure care and people with lived experience of secure care, there is no clarity as to how the current transactional procurement model will be reviewed to ensure a commissioning approach which is fit for purpose.²²

82. St Mary's Kenmure Secure Care Unit told the Committee that—

” The secure contract is in my view, an extremely restrictive commissioning model that requires Directors of Service and others to attend yearly fee negotiation meetings if there is a need to increase the bed rate to either pay staff salary increase, invest in capital refurbish, maintain or renovate the unit, increase in heating and lightening costs etc. but most importantly additional costs to diversify the range of therapeutic interventions on offer to our young people. These meetings are extremely anxiety provoking as panel members are more often than not inexperienced in directly delivery services and are stakeholders who have a focus on cost over quality.

The contract also does not allow for any surplus that is generated to be invested towards diversifying the service. This is particularly challenging for St Mary's. As stated, St Mary's currently only has one service provision and that is secure care. If St Mary's future is to be more secure, it must diversify services and generated other sources of income if it is to continue to compete for places.²³

83. They concluded that the "commissioning model is not congruent with the delivery of a service that meets the needs of vulnerable and/or high risk young people" and that the contract has significantly impacted on relationships across all the units with a tone of competitiveness and rivalry preventing sharing of good practice. In their view, "if the contract continues to be place financial restrictions on St Mary's then achieving a quality service for our young people will undoubtedly be impacted on and that would be devastating for the service."²³

84. Similarly, Deborah Nolan of the Centre for Youth and Criminal Justice said that "there are various concerns about our current approach to commissioning secure care services for our children". For her, those concerns had been illustrated on multiple levels, referring to the market approach and the lack of a national commissioning model.²⁴

85. This point on the need for a national commissioning model was also highlighted by the Forensic Mental Health Services Managed Care Network. It said that a national commissioning model with risk share across all local authorities.²⁵

86. In its evidence, the Glasgow City Health and Social Care Partnership (GCHSCP) concluded that—

” .. at the present time secure care is shaped by a business driven model which does not necessarily enable provision to be marched to the needs of the young person. Various stakeholders including Partnerships, Scotland Excel and Scottish Government having limited leverage over the market and providers are in possession of a lot of influence at this stage. More work needs to be undertaken at a national level to ensure provision of secure care for Scottish young people, increase collaboration between providers, improve choice and competition.²⁶

87. For Nicola Dickie of COSLA, the strengths of the current system is that the contracting process only has to be completed once for Scotland. She said that in itself brings benefits in that allows local authorities to have a collective view on what they may want at a Scotland level and across all the local authorities. It also means that COSLA's providers have one set of meetings to attend. She stated that, "if COSLA did not have the Scotland Excel contract, all our providers would be getting into contractual arrangements with individual local authorities, so there are strengths in that set-up."²⁷ In terms of weaknesses however, a single contract took time to negotiate and responding to local needs need to be taken account of.
88. In Scotland Excel's view, one further weakness of the current contractual model is that going to market to put in place a service on a non-commitment basis makes it difficult for the Scottish Government to identify a national solution; it is also difficult for the providers and local authorities.²⁸ In Hugh Carr's view, the weakness in the current model relates to Scotland Excel's lack of ability to have block funding of places, which potentially leads to capacity constraints.²⁸

Cross-border placements

89. As outlined above, the financial sustainability of the current contractual model is designed around a break-even point of 90% occupancy. Where a provider's unit is below 90% occupied, their operating costs are not met. Conversely, where a provider is above 90% occupied, they generate additional income (surplus) above their operating costs.
90. In recent months, the numbers of children and young people being placed into secure care by Scotland's local authorities has fallen substantially. According to Who Cares? Scotland there has been an 18% decline in the average number of residents from within Scotland and an increase of 89% in the average number of residents from outside Scotland (mostly from England) in the secure care estate. Caution needs to be applied to these statistics as some secure care units (see below) provided evidence to show that the number of cross-border placements in their units had fallen.
91. In any case, the question of the use of cross-border placements has been a feature of the evidence taken by the Committee. As Hugh Kerr of Scotland Excel told the Committee—

” ... one of the challenges for the providers is that, if occupation falls below 90 per cent, they have to seek cross-border placements to increase the utilised capacity of the unit. That creates a weak model, because there might be a lack of appropriate places at the most appropriate unit for the individual.

Source: Justice Committee 10 September 2019 [Draft], Hugh Carr, contrib. 72²⁹

92. For COSLA, this situation is not something they would necessarily alter. Nicola Dickie told the Committee that it would be wrong for local authorities to use places simply because they had paid for them in advance.
93. The Good Shepherd Centre was of the view that the recent media coverage has been unhelpful in its presentation of the cross border placement issue. They stated that the proportion of young people placed from England in secure care in Scotland and certainly at their centre had reduced dramatically during late 2018 and has continued to reduce throughout 2019 to date, and the Centre is not currently accepting referrals from England³⁰. For the Kibble Safe Centre, it had taken a decision to prioritise placements from Scottish local authorities and it would only consider cross border placements when there is more than one vacancy and no other Scottish placements anticipated.³¹
94. In her evidence to the Committee, Carol Dearie of the St Mary's Kenmure Secure Care Centre stressed the importance financially to her unit of cross-border placements. She said—

” There was a significant decline in the number of beds being used in Scotland, hence the reason for our using cross-border placements. That kept us in business; without cross-border placements, I would not be sitting in front of you today as the head of St Mary's. It might be safe to say—although I will leave that to others—that one unit, if not two, would definitely have closed without cross-border placements, which have allowed us to stay in business, although I hate to use that word.

We have recently seen a significant increase in the number of referrals from Scotland, but the difficulty is that a lot of placements are taken up by cross-border kids to whom we gave a commitment to provide a bed. I do not know about the rest of the panel, but I am not prepared to open the door and just say, “No, thanks very much”. They are still children—and children in my care. There are challenges. If I said that we would have only Scottish young people, I could sit for two weeks without getting a referral from Scotland, and that would be a significant financial loss to St Mary's, because St Mary's currently offers only secure provision, which makes things more difficult for us.

Source: Justice Committee 28 May 2019, Carol Dearie, contrib. 235³²

Capping or a block-booking system?

95. As outlined above, the financial viability of the current model is based around a 90% occupancy break-even point for secure care providers. In order to ensure they remain in business, some units need to take in children and young people from outwith Scotland but at the same time are trying to ensure sufficient spaces remain for children and young people from Scotland. It would also appear that the demand from Scotland and outwith Scotland can vary making it difficult at any one time to

ensure the financial viability of the units. One suggestion made to the Committee is to place a cap on the number of cross-border placements.

96. Nicola Dickie was not supportive of such a move. She said—

” I do not think that implementing a cap would be helpful unless we did some other things. If a cap were to be implemented and secure care providers left to carry the burden, viability issues across the estate would be inevitable, so it is probably not an option.

Source: Justice Committee 10 September 2019 [Draft], Nicola Dickie, contrib. 93³³

97. For her, a 'hybrid model' would be a better option as this may reduce the requirement for cross-border placements, through using a number of initiatives.

98. Nick Hobbs was open to considering different options but stressed the final decision needed to balance competing risks—

” Everybody is in broad agreement that we want beds to be available for children who need them and that the current model sometimes struggles to achieve that. I would like the Scottish Government to do the work to produce a range of solutions, which might include a cap or block funding or other options. I appreciate the risk that beds might not be utilised for periods of time; the question that we need to confront and Government needs to answer is which risk we are happier to bear. Are we happier for beds to be insecure and underutilised or for a child to need a bed but not be able to access one?

Source: Justice Committee 10 September 2019 [Draft], Nick Hobbs, contrib. 92³⁴

99. Another option suggested to the Committee is one where local authorities 'block book' a specific number of places to ensure they have sufficient beds if needed. Hugh Carr suggested that the absence of block booking in the current system was one of the weaknesses in the current model, which potentially leads to capacity constraints.²⁸

100. He conceded, however, that the alternative of block funding of placements to consume a defined capacity would undoubtedly be unpalatable to local authorities and the Scottish Government.³⁵

101. The Kibble Education and Care Centre said that it was "open minded about the principle of block booking to ensure availability for Scottish placements", stating this could apply to not just local authorities but partners in Scottish Government and NHS. It said, however, that it would have "deep concerns about any moves to include private sector providers into the framework in Scotland". In its view, this has been proven to not work in England and has failed to provide high quality care and value for money.³⁶

102. The Glasgow City Health and Social Care Partnership warned, however, that block-booking can result in some young people being turned away even though the full provision may not have been taken up.²⁶

Monitoring referrals

103. One of the challenges in assessing and monitoring developments in relation to the availability of placements is that, as Scotland Excel noted, there is no centralised recording of referrals at the current time. This means it is difficult to monitor the number of referrals which may be a more effective indicator of need.¹⁷

Human rights and the rights of the child

104. One question posed by the Committee was whether Scotland's international human rights obligations under the UN Convention on the Rights of the Child were being met in relation secure care units.
105. In its submission, the Centre for Youth and Criminal Justice noted that, unlike prison, solitary confinement is never used in secure care and segregation is the option of last resort and is not used as a punishment, with strict limits on how long this can be used for. The CYCJ did note, however, that there have been concerns identified in relation to secure care in respect of access to other services, specifically around access to health care. In its view, "this represents a major breach of UNCRC article 24; "no child is deprived of his or her right of access to such health care services"". ³⁷
106. The Centre also points out that there is an inconsistency in Scotland where some children aged under 18 are remanded or sentenced to secure care, and others go straight to a YOI. Indeed, at any one time, CYCJ noted that Scotland continued to have numerous more children on remand or sentenced in YOIs rather than secure care.³⁷
107. The Kibble Education and Care Centre stressed how important human rights were to its work. It said—

” The UNCRC is embedded in Kibble’s ethos, including the right to be consulted and participate under Article 12. We achieve this through School Council Meetings, monthly Participation Groups with Who Cares? Scotland, participation in organisation and national level consultations, Complaints & Feedback, and young people’s house meetings.

In addition to Article 12, Articles 14 and 17 give children and young people the right to hold their own opinions and to access information. Within the secure environment all young people are given an information leaflet explaining what information is held on them and their rights to access this.³⁶

108. The Commissioner for Children and Young People in Scotland stated that he welcomed the development of National Standards for Secure Care in this regard but that these should be drafted to be rights-based and easily understandable to children and young people. He also stressed that it was important for young people to have access to child friendly complaints mechanisms, so that practice and policy can be challenged when necessary.³⁸

Transition from secure care to prison and from both to the community

109. In addition to taking evidence about children and young people in either secure care or the prison estate, we also heard views on the importance of managing the transition for children and young people between these two parts of the system and their transition out after release.
110. Speaking more generally, Wendy Sinclair-Gieben, HM Inspector of Prisons in Scotland was critical of the provision of information that accompanies a young person on their incarceration in HMP YOI Polmont. She said it was inconsistent and patchy.¹⁴ Similarly, Dr Helen Smith said, again, more generally that—
- ” The situation is very variable. In my experience, some young people, particularly those who have been sentenced, come in to [HMP YOI Polmont] with a lot of information, but we can get very little such information on young people who are remanded.³⁹
111. One of the additional challenges pointed out by the Chief Inspector was the need to get things right in the first 48 hours after entry into the prison. She noted that problems can occur if this takes place late on a Friday afternoon, noting that—
- ” ... provision is fragmented, in the sense that all the health boards do their own thing. What we have found in Polmont in particular is that the information transfer between secure care and Polmont or between community and Polmont is not rapid, so for a child coming in on Friday afternoon, the staff at Polmont are unlikely to get the full information until they have done the research on Monday.⁴⁰
112. Speaking specifically on the transition between secure care and HMP YOI Polmont for young people with mental health needs, Wendy Sinclair-Gieben said that the mental health approach for these people in secure care and in HMP YOI Polmont should be seamless and the same, and that having that continuity and a seamless pathway of care is important. She said however, that in reality, "provision is fragmented, in the sense that all the health boards do their own thing". She indicated that her inquiries had found that for HMP YOI Polmont in particular, "the information transfer between secure care and Polmont or between community and Polmont is not rapid, so for a child coming in on Friday afternoon, the staff at Polmont are unlikely to get the full information until they have done the research on Monday, rather than being able to access the person's health record with a couple of clicks."⁴¹
113. Wendy Sinclair-Gieben concluded that there were a number of actions that could be carried out to help. She said—

” There is, inevitably, the general data protection regulation. It is a real issue, so there needs to be a consensus agreement between all the relevant agencies. There needs to be a framework that has a minimum data set that everybody signs up to, understanding what the minimum data requirements are and what the standards of that minimum data set are, so that you can do the assurance and accountability and say, “Are we meeting the standards of the minimum data set?” I think that it can be done electronically. I do not think that it is an easy task. Every agency works with the best intent, but my overwhelming feeling is that it is very hard to make decisions unless you are fully informed.

At the moment, sometimes people are fully informed and sometimes they are not, but what surprised me was that some people come into Polmont with a comprehensive dossier of information and some, for whom there is a plethora of information out there, come in with none. We need a consensus agreement on what information we will provide, how it will be transmitted and what standards we will be measured against.

Source: Justice Committee 28 May 2019, Wendy Sinclair-Gieben, contrib. 61⁴²

114. One of the challenges for the Scottish Prison Service (SPS) was dealing with 'unplanned' transfers from the secure estate into prisons. When a transfer was 'planned', Lesley McDowall of explained that the children and families directorate within the Scottish Government would notify HMP YOI Polmont that there was going to be a transfer. At that point, SPS would look to have an initial meeting about six months prior to the transfer. SPS would meet representatives from the secure accommodation and would be able to share information on that young person. Then, about a month prior to the transition, SPS would again meet representatives from the secure accommodation and our key partners, including the NHS. Social work would also be part of that discussion so that we have all the available information prior to the individual coming into our care. ⁴³
115. Ms McDowall then explained that, when the transfer is unplanned, it is more difficult. She described the process as "more about an escalation". When SPS is made aware that a young person is coming, it asks to be alerted to the fact that that person might be attending court and then come into its custody, that the relevant governor and deputy governor are made aware of the situation immediately, and that a multidisciplinary case conference is convened at the earliest possible opportunity with somebody from secure care so that SPS can get all the available information available. ⁴³
116. Deborah Nolan of the Centre for Youth and Criminal Justice pointed to the importance of getting the transition right. She told the Committee that transitions for young people are often major, traumatic life events. Therefore, she added—

” ... when such moves are carried out on an unplanned basis—for whatever reason—it can make it extremely difficult to ensure that they are managed appropriately or done in the best possible way. It can make it difficult to ensure that good practice and guidance is implemented if the young person is moving on a crisis basis. Where young people are moving on an unplanned or crisis basis, it is important that we reflect on the reasons that led to that, what we did during those periods and what we could do more of in future in order to prevent unplanned crisis moves or where they happen, to ensure that we are able to manage them as effectively as possible. ⁴⁴

117. Kirsten Hogg of Barnardo's Scotland also stressed the importance of managing the transition upon release. She said that symptoms relating to trauma in particular spike before people transition out of the support they are receiving in prison or in secure care and that the first six to eight weeks back in the community are critical. She highlighted that "that is where it is really difficult to find a support service". In her view, in some local authority areas that was possible; in some local authority and health board areas that was not possible—the support just was not there. ⁴⁵

118. For Nicola Dickie of COSLA, the transition between the secure care providers and Polmont, or the secure care providers and the community, is even more important because it is such a short period. She said that "we do not have a long planning window to get our young people back out into the community with the right support, and we need to get it right." ⁴⁶

119. Lesley McDowall outlined the benefits of current arrangements for information sharing between SPS and the health boards and noted that more could be done with the secure care estate. She said—

” We have an information-sharing protocol between the Scottish Prison Service and the nine health boards that have responsibility for the delivery of healthcare in prisons, which gives us a framework for agreeing what information can be shared and by which routes. That is certainly a very helpful tool for the Prison Service, health boards and practitioners on the ground. Having something in place with secure accommodation and social work that set out clearly what information could be shared and with whom would certainly be very helpful. ⁴⁷

Age-related transfers

120. At present, young people are transferred from secure care to the prison estate no later than the day before their 18th birthday. For Carol Dearie of St Mary's Kenmure Secure Care Centre, this is concerning. She said—

” One of my concerns, and I am sure that it is shared with my colleagues, is that more emphasis is put on age than on vulnerability, in my opinion. What magically happens when a young person reaches the age of 18? A young man who was doing exceptionally well serving his sentence in St Mary’s was recently moved to Polmont with only a few months to serve. I am really uncomfortable with that.

Years ago, when I first started on this journey, a young person who had only a short part of their sentence left after the age of 18 resided in the secure unit. That somehow changed. I am not sure whether any of my colleagues can shed any light on why it changed. I do not know if it happened because of demand for places at that time, but we suddenly saw our children and young people being moved away from relationships—including relationships that were often formed over a period of years, particularly if they were sentenced as kids. They were suddenly taken away and put in a prison environment, which has a very different structure.

I do not know the answer, except to say that I sincerely hope that the committee considers seriously why we put so much emphasis on age. Vulnerability, ACEs and poor mental health should all urge us to say that age is a much lower priority. We should be looking at vulnerability.

Source: Justice Committee 28 May 2019, Carol Dearie, contrib. 162⁴⁸

121. Deborah Nolan also commented on this situation, stating that it "highlights the legal barriers and the challenges to taking a needs-led and developmentally led approach, to ensure that we care for children in the best possible facilities that meet their needs." ⁴⁹
122. The Good Shepherd Centre said that, instead of an automatic age-related transfer, a 'children first' approach was needed. In its view, secure care centres have successfully cared for young people placed through the Courts and young people placed through the Children's Hearings System alongside each other, with the 'offer' to young people in terms of access to education and help and support not differing because a young person has been involved in offending and/or seriously harming others. ³⁰

Young people in prisons

123. In Scotland, HMP YOI Polmont is the national holding facility for male young offenders aged between 16 - 21 years of age. Since 2016, Polmont YOI had also held female prisoners while renovation work took place at HMP YOI Cornton Vale in nearby Stirling. Since 2005, according to [press reports](#), there have been 11 deaths of young people at HMP YOI Polmont. Details of the deaths in prison for each establishment, including HMP YOI Polmont, since 2009 are [published](#) online by the Scottish Prison Service.
124. These deaths led the Scottish Government to commission the Chief Inspector of Prisons in Scotland to complete a [review](#) of mental health provision at the institution.

125. The review made 80 recommendations in total. At a high strategic level, the review noted:
- The lack of proactive attention to the needs, risks and vulnerabilities of those on remand and in early days of custody.
 - The systemic inter-agency shortcomings of communication and information exchange across justice that inhibits the management and care of young people entering and leaving HMP YOI Polmont.
126. Additionally, the review made seven key recommendations, with a wide range of detailed supporting suggestions:
- Social isolation, as a key trigger for self-harm and suicide, should be minimised, with a particular focus on those held on remand and during the early weeks in custody.
 - To support more effective risk management, the Scottish Government and other agencies should work together to improve the sharing and transmission of information for young people entering and leaving custody.
 - A bespoke suicide and self-harm strategy should be developed by the Scottish Prison Service and NHS Forth Valley for young people that builds on the strengths of the existing framework.
 - NHS Forth Valley should develop a more strategic and systematic approach to prison healthcare, with accompanying workforce capacity review and improved adolescent and young people specific training.
 - An enhanced approach should be developed, by the Scottish Prison Service, for the Talk to Me Strategy (TTM) suicide prevention work, with more intensive multi-disciplinary training and a more gradual phased removal for those placed on TTM.
 - Enhanced and more consistent Death in Prison Learning Audit and Review (DIPLAR) processes, by the Scottish Prison Service, are required to maximise learning from previous incidents.
 - Further work should be undertaken by Scottish Government to provide a central coordination point for Government reviews, use the existing analytical expertise to analyse comparative performance on suicides, and consider how the justice system can better respond to international evidence about maturation and alternative models of secure care.

The rates of suicide and contributory factors

127. The genesis of this inquiry by the Justice Committee was the tragic deaths in custody of Katie Allan and William Brown, also known as William Lindsay. **The Committee welcomes the [review](#) of mental health provision at the institution by HMIPS and the Cabinet Secretary's response whereby an Action Group including relevant officials from across Scottish Government, the Scottish Prison Service and the NHS has been convened to oversee progress across the numerous review recommendations.** Additionally, some of the

recommendations will be taken forward under existing Scottish Government strategies.

128. The Committee received a number of submissions commenting on suicide in Scotland's prisons and HMP YOI Polmont specifically. According to Lesley McDowall of the Scottish Prison Service, using the data and methodology that the SPS follows, the suicide rate in Scottish prisons in 2017 was 41.4 deaths per 100,000 and, in 2018, it was 44.5 per 100,000. This is based on figures taken across a year, not on any given day. Ms McDowall described the rate as "fairly static".⁵⁰
129. This view is disputed by Linda and Stuart Allan, the parents of Katie Allan. According to their own research, in 2018, the percentage of deaths by suicide compared to total deaths (where the cause of deaths is known) is 57.1%. This figure has risen from 54.5% and 50% in 2017 and 2016 respectively.⁵¹
130. According to HMIPS, care needs to be taken regarding interpretation of any figures on suicides, given the very low numbers and the fact that any fluctuation will be significant in percentage terms. For these reasons, HMIPS believes that there is a need to search for data that throws further light on the vulnerability of young people, levels of suicide and self-harm across their whole justice journey, including in the community, on supervision and in the period following release. That said, HMIPS accepts that young people are known to be a high-risk group in both the community and within custody, with under 24 year olds accounting for 10% of all suicides in Scotland over the last five years.⁵²
131. An expert study carried out for the HMIPS as part of its review concluded that younger people's rate of suicide in prison internationally and in Scotland is "much higher compared to older age groups in prison, and the disproportion between the suicide rate for people in prison and in the general population is greatest for younger age cohorts". The review also noted that "most suicides of young people take place within three months of being detained."⁵²
132. The review also concluded that - using rolling averages - figures for the three years for 2016-2018 appear to show that HMP YOI Polmont is over-represented with regards to the percentage of apparent suicides, compared to their percentage of total population.⁵²
133. In its evidence, the Centre for Youth and Criminal Justice expressed concern at the rate of suicides amongst young people in prison. It said—
- ” We are concerned by the apparent increase in the number of deaths by suicide and the disproportionate number of deaths of people on remand within the prison estate. In addition, there is a lack of publicly available information on instances of attempted suicide and self-harm and any learning taken from reviews of these. We are not aware of any recent deaths by suicide by children in secure care. Within HMP YOI Polmont work is underway to make improvements to current systems and process for children who have mental health issues as part of the mental health review and some pre-dating this. One standardised assessment will be used and mental health nurses employed to ensure that the children have access to services when they need them.⁵³

134. The Forensic Mental Health Services Managed Care Network noted that whilst all staff within HMP YOI Polmont are trained in the Talk-to-me suicide prevention strategy, staff sickness and vacancies within the mental health team meant that it "is functioning on a day-to-day basis with fewer nursing staff than optimal". They also indicated that whilst the use of agency nurses has eased this pressure, without substantive staff in post, staff service development is limited. This body also noted that, in recent years, there had been no multidisciplinary Mental Health Team meetings which were valuable in terms of information sharing, coordination of services and providing a person-centred approach to care.⁵⁴

Bullying

135. The causes of the death by suicide by a young person in prison are complex and multi-faceted. One contributory factor can be instances of bullying during incarceration.
136. HMIPS's inspection report of HMP YOI Polmont conducted in late 2018 stated—
- ” "Where bullying was identified, the establishment had a robust policy and a range of strategies and options for support. Inspectors identified that HMP YOI Polmont was positive about supporting those that had been bullied, but observed that incidents of bullying were often dealt with informally".⁵⁵
137. The Inspectorate recommended, however, that HMP YOI Polmont should ensure that all incidents of bullying are recorded on PR2 (SPS Prison Record System), regardless of whether they were managed formally or informally or reported to the intelligence unit within the prison.
138. In their evidence to the Committee, Linda and Stuart Allan indicated that they had spoken to a number of families who had a young person incarcerated in HMP YOI Polmont and that—
- ” ... the key concerns for families of prisoners in HMP YOI Polmont are drug use and possible bullying, which were a constant worry that contributed to their own stress.⁵¹

Social isolation

139. Another contributing factor is that of social isolation within the prison, brought on in part by excessive time spent by the young person in their cell. As the HMIPS review of mental health at Polmont recommended, "Social isolation, as a key trigger for self-harm and suicide, should be minimised, with a particular focus on those held on remand and during the early weeks in custody". As HMPIS noted however, time out of cell for its own sake is not enough, and this time needs to be meaningfully occupied with activities that support and allow social development. As our report below notes, remand prisoners held at HMP YOI Polmont are particularly problematic when it comes to social isolation.
140. Kirsten Hogg of Barnardo's Scotland cautioned that social isolation can also be a "layering factor" and exacerbate trauma. She explained that young people need trusting relationships to help with their mental health support because of their

experiences of trauma. In her view, social isolation can prevent them from getting the support that they need. As part of Barnardo's youth work support in HMP YOI Polmont, its youth workers go out to young people who do not feel able to come out of their cells and try to develop close relationships with those young people to help and support them to feel confident about coming to smaller group work. She indicated, however, that there were challenges of resources and "there is a limit to the amount of time that can be devoted to trying to break down barriers and develop trusting relationships." ⁵⁶

141. One of the means of tackling social isolation - through the use of youth workers or directly by SPS - is encouraging a young person to spend time out of their cell to socialise and or take part in meaningful activity, such as education or employment training. Another is to install in-cell technology in the rooms. As the Chief Inspector of Prisons explained to the Committee—

Those of us who have teenagers know that young people are welded to their phones, but in HMP YOI Polmont we take away from them their primary means of communication. Currently, if the person is distressed at night, they can ring a bell and somebody will come and give them a phone so that they can call Samaritans. That requires a level of self-help behaviour, but if they could just phone a helpline or phone their family or whoever from their room without having to stigmatise themselves, that would be a huge benefit. I certainly see that as a quick win.

Source: Justice Committee 28 May 2019, Wendy Sinclair-Gieben, contrib. 35⁵⁷

142. Following this call made at the Committee, the Scottish Government asked the Scottish Prison Service to start a pilot of in-cell telephones for young people at HMP YOI Polmont. This came alongside a decision to also end routine strip-searching of inmates younger than 18 years of age. ⁵⁸

The use of remand

143. As noted above, social isolation in prisoners can be caused by a prisoner spending excessive hours in their cell and not partaking in social or meaningful activities such as education or employment training. This is particularly problematic in HMP YOI Polmont and indeed elsewhere in the prison estate within remand prisoners. As the Chief Inspector of Prisons notes, "we have, in Scotland, a culture of remand prisoners not being given the same opportunities as convicted prisoners—for very good reason— but social isolation is, nonetheless, a real issue." ¹⁴
144. As her report into HMP YOI Polmont stated, there is a "cultural acceptance" that remand prisoners are not given the same level of opportunities to make the best of their time in custody. The Chief Inspector concluded that we should be "maximising support for those held on remand, information sharing to inform the management of young people, facilitating the maximum use of diversion (where appropriate) and recognising the growing evidence about maturation."
145. The Chief Inspector told the Committee that, to help solve this problem—

” There are ways and means to deal with social isolation. The primary one would be through legislation, which currently implies that remand prisoners are not allowed or are not required to work. Their not being required to do that means that when a member of staff says, “Come on—out of your room. Time to come out and mix and do things. It’s great fun. Go and pat the dogs”, the young person can say no, and can say that they do not have to because they are on remand. We need to remove that possibility and recognise that a degree of coercion should be available to get people out of their room, to get them to take advantage of opportunities, to go to induction and so on. That would be a legislative solution.

Source: Justice Committee 28 May 2019, Wendy Sinclair-Gieben, contrib. 35⁵⁷

146. Finally, she also explained that, unlike for convicted prisoners, data on remand prisoners—how many times they come out of their room, how many visits they have had, or what activities they have attended—is not readily available. The Chief Inspector called for this needs analysis and data to be collected.
147. Kirsten Hogg indicated that the youth worker services offered by Barnardo's Scotland in HMP YOI Polmont were available to young people on remand by cautioned that, " If all young people on remand were asked to access our services, they would not be able to, because we are full to capacity."
148. Deborah Nolan explained that the situation in relation to young people on remand was challenging. She said that legislative and financial imperatives can be a factor in the decision-making process, rather than the decision always being based on the needs and best interests of the child.
149. Speaking in the Chamber, the Cabinet Secretary for Justice indicated that her recognised the particular challenge of remand, stating—
- ” We know that the time people currently spend on remand is largely unproductive. This review underlines how potentially damaging periods spent on remand can be for individuals. The number of young people, aged under 21 years old, held on remand in Scotland has fallen by a quarter over the past 5 years. However, we will continue to work to ensure alternatives to remand are available for young people and to support those young people held on remand.

Mental health support and training

150. The provision of adequate mental health support to prisoners and the appropriate training of staff that work, or provide services, in HMP YOI Polmont is vital to the mental health and care of the young people held there.
151. In her review of the prison, the Chief Inspector of Prisons concluded that NHS Forth Valley should develop a more strategic and systematic approach to prison healthcare, with accompanying workforce capacity review and improved adolescent and young people specific training. She also recommended that an enhanced approach should be developed, by the Scottish Prison Service, for the Talk to Me Strategy (TTM) suicide prevention work, with more intensive multi-disciplinary training and a more gradual phased removal for those placed on TTM.

152. As her review notes, whilst the staff involved may be compassionate and caring, there were, however, no NHS staff with training in adolescents, and none of the clinical staff have undergone the Essential CAMHS competency training that would be routine in staff appointed to a CAMHS service.
153. In their evidence to the Committee, Colin McConnell of SPS said that they were on an "improvement journey", whilst his colleague, Lesley McDowall, said that as part of SPS's training development, it was looking at trauma-informed practices for staff within HMP YOI Polmont, and was looking to develop training with NHS Health Scotland.
154. In their evidence, Linda and Stuart Allan were critical of the Talk to Me strategy at HMP YOI Polmont. They said—

” ... the strategy lacks an evidence base, is not implemented consistently, relies mainly on the self-reporting of suicide ideation and makes no differentiation between planned and impulsive suicide. The strategy highlights that assessment is a ‘dynamic’ process and individuals should be reassessed if any change is noted, if they have been transferred or appeared in court (in person or via video link). It emphasises the use of ‘concern forms’ which anyone should complete to raise any issues that may have a detrimental impact on the young persons mental health. Our daughter was not assessed following an appearance at court to withdraw an appeal against sentence, nor were any concern forms completed, despite raising numerous concerns with staff.⁵¹

155. In their written evidence, Barnardo's Scotland highlighted the positive work that the third sector can offer to staff in HMP YOI Polmont by way of training, but highlighted some of the challenges. It said that while the presence of third sector organisations can be seen to be of great benefit to the young people, these services are challenged by increasing demand for their support; the increasing complexity of the challenges faced by young people in HMP YOI Polmont; and the uncertainty of one year funding relationships.⁸ Barnardo's also stress that support for mental health and well-being should not be restricted to only to diagnosable mental health conditions.

156.

Other services (e.g. health and education)

157. In addition to mental health and trauma support, the Committee also looked at the provision of other services in HMP YOI Polmont, such as health and education.
158. As noted above, there are particular challenges with remand prisons - both in terms of the legislative framework and current financial resources - in ensuring that all or most remand prisoners participate in meaningful activities such as education and employment programmes. As the Centre for Youth and Criminal Justice noted, in HMP YOI Polmont, children on remand are invited to work and can access education. However, as only convicted prisoners are expected to work, many children on remand refuse this offer, and instead could for up to 140 days be doing nothing, with the resulting lost opportunity and potential for isolation this brings.

159. The Centre for Youth and Criminal Justice also told the Committee that "via the Learning Centre [in HMP YOI Polmont], a full curriculum is available, including a variety of educational and expressive courses, with programmes and approaches aligned with the curriculum for excellence and a range of qualifications available."
160. This appears to be at odds with the evidence from the parents of Katie Allan who were critical of the education being provided, stating—
- ” Undoubtedly there are a wide range of opportunities within HMP YOI Polmont, however these do not, in our experience reflect Curriculum for Excellence (CfE) as stated. CfE places the learner at the centre. Our daughter was a 3rd year undergraduate student who ran her own flat, held down a part time job and helped with looking after dependent grandparents. She was writing her honours dissertation on carceral geographies. At HMP YOI Polmont she was told she had 'too many books'. She attended 'life skills' and was taught how to bake cupcakes and was given a map of the world to colour in in education. Her experience was that the 'leading edge' opportunities negatively impacted on her self-esteem.
161. In addition to mental health and trauma support, the Committee heard a number of concerns regarding support and training for other conditions, such as speech and learning therapy, ADHD, autism etc.
162. Dr Helen Smith accepted this was a challenge, stating that the services available at HMP YOI Polmont need to be "more proactive in screening" for these conditions and that transition of a person between secure care and HMP YOI Polmont, and from HMP YOI Polmont to the community, exacerbates the challenge. Similarly, Colin McConnell accepted that the situation faced by his staff was complex but he did "not want to try either to create the impression or to pretend that prison officers in Scotland can become experts in those issues." He said that the SPS "simply do not have the capability or, for that matter, the recruitment approach to deliver" and he had to rely on the NHS. Lesley McDowall stated that some training had taken place, on an ad hoc basis and in partnership with the NHS, and that some awareness-raising around ADHD has taken place, but that would have been with key staff.
163. In their evidence to the Committee, the Royal College of Speech and Language Therapists said that there was "inadequate funding for SLT at Polmont (22.5hrs of SLT per week to cover 60% plus of people held in HMP YOI Polmont, HMP YOI Cornton Vale and HMP Glenochil)". The Royal College acknowledged that good quality training is available to staff at the prison, but that this competes with other training demands and therefore "can't be backed-up with sufficient "on the ground" support due to the lack of SLT availability".
164. Finally, in relation to health and medical care, as the Commissioner for Children and Young People in Scotland noted in his evidence, UN Rules state that every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care. These rules state that every child has a right to be examined by a physician immediately upon admission to a detention facility, for the purpose of recording any evidence of prior ill-treatment and identifying any physical or mental condition requiring medical attention.

165. Dr Helen Smith noted that the review of HMP YOI Polmont had noted that a significant volume of medication must be dispensed, which takes a long time in an establishment as large as HMP YOI Polmont. In her view, "that restricts staff activity in some of the interventions that are available". In discussions that the Prisons Inspectorate had had with NHS staff, it was noted that the dispensing of medication was time consuming and there were delays in medications being delivered to the prison, which impacts on the ability of clinical staff to deliver therapeutic interventions. Also, Dr Smith noted that, before the review and the inspection, in Polmont there was no psychology input for young people under the age of 18. This has now been rectified.
166. HMIPS made a series of recommendations for NHS Forth Valley in relation to health care provision at HMP YOI Polmont, including that:
- NHS Forth Valley should review prescribing policy and availability of prescribers to try and reduce delays in access to medication.
 - NHS Forth Valley should work with Scottish Patient Safety Programme to help implement the recommendations regarding medication made during the HMIPS inspection.
 - Other options for medication dispensing should be considered to free up mental health nursing time and to enable further and enhanced therapeutic interventions to be delivered.

Information sharing and communication

167. One particular area of criticism by the Chief Inspector of Prisons and others in relation to the care of young people at HMP YOI Polmont is that of a failure by a variety of bodies to share information. In this we share the view of the Cabinet Secretary for Justice that—
- ” ... no one going through the justice system should be harmed by the failure of agencies to fully share information with one another where data protection legislation allows it.
168. One of the high-level issues identified by the Chief Inspector during her review of mental health care at HMP YOI Polmont was the frequency of inter-agency failures in communication and information sharing and the need for greater consensus, data sharing and ease of transmission. As the review concludes—
- ” ... there were important inconsistencies and gaps in information sharing between agencies, even though that information was likely to have been available. This would have assisted optimal handling at admission and the subsequent management of young people during custody.
169. Worryingly, the review "also identified a significant and concerning divergence between young people arriving after conviction and sentence, young people arriving on remand, and young people transferred from secure care."
170. The Chief Inspector noted that sentenced young people should arrive with a comprehensive dossier from Criminal Justice Social Work (CJSW), enabling HMP

YOI Polmont to take immediate steps to mitigate risk and build interventions or coping strategies on known data and, where relevant, current care planning. However, HMIPS noted that remand and secure care receptions have a varied and at times impoverished level of information available, creating unnecessary risk.

171. HMIPS recommended that benefits that could accrue from a consensus agreement to develop one model of sharing information and transmission include reducing the potential for risk and distress, and enabling the SPS to develop an appropriate care package. As Wendy Sinclair-Gieben told the Committee, "There needs to be a framework that has a minimum data set that everybody signs up to, understanding what the minimum data requirements are and what the standards of that minimum data set are".
172. Lesley McDowall of the SPS noted that there was an information-sharing protocol between the Scottish Prison Service and the nine health boards that have responsibility for the delivery of healthcare in prisons. However, as Colin McConnell noted, "we have a long way to go yet before any of us could be satisfied with either the level of information sharing or, for that matter, the detail of it."
173. He added that—
- ” ... there is a broader issue here that has to be tackled, which is that this is a multi-agency, multispecialism policy. Whether one individual agency could take it on is a matter for debate. However, we should be clear that the SPS is right at the end of the pipe on this, as we are on many other issues associated with care or, for that matter, justice. We absolutely understand that. We would most certainly be prepared to act as the generating point or the coalescing point—the driving force, if you like—if other organisations and agencies were comfortable with that.
174. In his response to the review of HMP YOI Polmont, the Cabinet Secretary accepted there was a problem and indicated that ministers will work with partner agencies to consider and take forward actions in response to the review's recommendations including what immediate actions the Scottish Government can take to improve information sharing between the different agencies supporting the care of young people entering and in Polmont.

Budgetary issues

175. As part of its pre-budget scrutiny in 2019, the Committee has looked in details at some of the financial pressures on the Scottish Prison Service and the challenges it faces. The Committee's report is due for publication shortly.
176. This report raises a number of budget matters that are highly pertinent to the challenges currently faced in HMP YOI Polmont, including:
- overall number of prisoners held and the relatively high numbers on remand;
 - resources (financial and staffing) for mental health care, services more generally and for purposeful activity;

- lack of equipment for the scanning of drugs and other contraband across all of the prison estate; and
- violence levels (prisoner on staff and prisoner on prisoner).

Learning from FAIs and DIPLARs

177. All deaths in prison are likely to be subject to a Fatal Accident Inquiry (FAI) under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976. However the decision to hold an FAI is a matter for the Lord Advocate/Procurator Fiscal.
178. Additionally, when a death occurs in custody, SPS and NHS Health Boards must analyse the incident in full and identify any learning opportunities to improve services. DIPLAR (Death in Prison Learning and Audit Review) is the joint SPS and NHS process for reviewing all deaths in custody and provides a system for recording any learning and identified actions. It is supposed to ensure openness and transparency of practice and opinion and focuses on establishment self-improvement. The DIPLAR is designed to consider the circumstances of the incident and the immediate actions taken.
179. In her review of mental health at Polmont, the Chief Inspector of Prisons said that, due to time, she was unable to look at the FAI determinations. She also said that she would have liked to see whether those determinations and recommendations match up to the DIPLAR review that happens and whether they are followed through and acted upon.
180. Her review did consider the time-frame, or the length of time between the death and the subsequent FAI, noting that Scottish fatalities investigation unit is trying to set a target of 12 months, so that any death in custody is investigated within 12 months.
181. In his evidence to the Committee, Colin McConnell of the SPS said that—
- ” I give the committee an absolute assurance that, if a sheriff makes recommendations in his or her determination, the SPS will certainly follow them through, as we do for reports and recommendations from the chief inspector or from any other independent body. If we have not followed something through, I want to know what it is.
182. His colleague, Ms McDowall elaborated by telling the Committee that, between 2016 and 2018, 68 fatal accident inquiries into deaths in custody took place, only two of which resulted in recommendations from a sheriff. Others presented formal findings only. In that event, SPS may take an action that it has not been formally requested to take.
183. In their evidence to the Committee, Linda and Stuart Allan said that they had conducted a review of the 50 most recent published FAI determinations available on the Scottish court’s website as of December 2018. Their findings showed that 31 were deaths in custody and 16 of which were deaths by suicide. They noted that none of the 16 FAIs into deaths by suicide made any formal recommendations.

184. The Allans further noted in their evidence that "recent reports suggest that the SPS has spent seven times more money on solicitor fees in FAIs than bereaved families have received in Legal Aid". In their submission, they state that the total legal bill for SPS was £322,737 since the start of 2018 compared to just £46,000 in Legal Aid to bereaved families. Of 32 completed FAIs since the start of 2018, just nine families received Legal Aid according to Mr and Mrs Allan. The Allans conclude by stating that—

” In addition to the formal recommendations and in the absence of the same from FAIs as a result of death by suicide in custody surely the SPS has a moral obligation to consider the narrative of the determination.

185. It should also be noted that, as the Committee began its deliberations on a draft of this report, the Cabinet Secretary [wrote](#) to the Committee announcing that he had asked HMIPS and others, such as Professor Loucks of Families Outside, to undertake a review of the handling of deaths in prison custody. He said that he expected the review to identify and make recommendations for areas for improvement to ensure appropriate and transparent arrangements are in place in the immediate aftermath of deaths in custody within Scottish prisons, including deaths of prisoners whilst in NHS care.

Conclusions

186. At its meeting on 11 April 2019, the Justice Committee agreed to carry out a short inquiry into the provision of mental health services and secure care places for children and young people in Scotland. The inquiry has also considered the current and future capacity and structure of secure care. Finally, the inquiry has also touched upon the care of young people imprisoned in HMP YOI Polmont.
187. The Committee's inquiry followed the tragic deaths in custody at HMP YOI Polmont of William Brown (then aged 16), also known as William Lindsay, and Katie Allan (then aged 21). According to press reports, there have been 11 deaths of young people held in HMP YOI Polmont since 2005.¹
188. This inquiry does not look into the specific circumstances of the deaths of either Mr Brown (Lindsay) or Ms Allan. These are matters for the judicial process through the Fatal Accident Inquiry (FAI) system. Nevertheless, some of the issues raised by their deaths, such as the availability of spaces in the secure care system and the care of people incarcerated at HMP YOI Polmont, are important components of our inquiry.

189. The Committee reiterates its condolences to the families of both of these young people, and to the families and friends of all of those young people who have lost their lives during their care or imprisonment.

190. In this respect, the Committee welcomes the [announcement](#) to the Committee from the Cabinet Secretary that he has asked HMIPS and other experts to undertake a new review of deaths in custody such as these. We look forward to considering the review's findings in due course and trust that our report will make a contribution to that work.

191. The Committee also welcomes the earlier response of the Scottish Government at the time to commission Her Majesty's Inspector of Prisons in Scotland (HMIPS) to conduct a [review](#) of mental health services at HMP YOI Polmont. The Committee endorses its high-level findings and major recommendations.

192. The Committee also supports the work underway as part of the [Independent Care Review](#), chaired by Fiona Duncan, and looks forward to its findings in the Spring of 2020.
193. Despite these two reviews (and others), the Committee remains concerned at the current provision of services in our secure care and prison system in Scotland, particular in relation to mental health, health care more generally and the support provided for education and other meaningful activities.
194. According to statistics provided to the Committee by the Centre for Youth and Criminal Justice (CYCJ), significant levels of mental ill-health can still be found

within our secure care institutions in Scotland. The Centre's survey indicated that, amongst the Scottish population, 35% of children had attempted suicide in the year prior to admission, with 53% experiencing suicidal ideation^{viii}. 22% had received a trauma diagnosis over that time-frame and 45% had experienced sexual exploitation; an issue that may require specialist counselling and support. Furthermore, staff within secure care noted that in 24% of cases, there was a suspected, undiagnosed mental health concern which they believed - based on symptoms and presentation - may include depression, Post Traumatic Stress Disorder (PTSD), violent fantasies and personality disorders. Despite this, only 36% of children within secure care had received support from the NHS's Child and Adolescent Mental Health Service (CAMHS) and only 4% from the Forensic CAMHS in the year prior to admission

195. The Committee is of the view that whenever our judicial system decides to take away a child's or young person's liberty by placing them in secure care or imprisoning them in prison then it is incumbent that they are provided with the best possible care and services in order to keep them safe, meet their needs and aid their rehabilitation back into the community.

196. As such, the Committee makes a series of recommendations below relating to the secure care and the prison system for Scotland's children and young people.

Young people in secure care

197. Assessments of need in relation to mental health and wellbeing should be carried out as swiftly as possible, preferably within the first days of their entry into the secure care system. We agree with Barnardo's Scotland that any such assessments should not just focus on diagnosable conditions but should be comprehensive of all needs. All children and young people held in secure care should be provided with guaranteed access to appropriate and timely provision of mental health services and trauma counselling when this is required.

198. We also agree with the evidence received from some organisations such as those currently operating some of the secure care units located outside of Glasgow that there is a postcode lottery when it comes to accessing Child and Adolescent Mental Health Services (CAMHS) in secure care units located outside of this city. This is not acceptable. All of Scotland's children and young people held in other parts of Scotland should have equal rights to access this valuable service.

199. The Committee is concerned at the evidence taken in relation to other needs, such as health, dental, speech and language therapy, support for ADHD and other conditions etc. The UN Convention on the Rights of the Child states that "no child is deprived of his or her right of access to such health care services". Yet, the

^{viii} Suicidal thoughts, or suicidal ideation, means thinking about or planning suicide.

Committee heard evidence that despite the fact that, for example, 60% plus of young people who offend have significant speech, language and communication needs, there is no ring-fenced provision of Speech and Language Therapy (SLT) in secure care in Scotland.

200. The Committee trusts that the provision of wider health services, such as for SLT, ADHD, autism and other conditions, will be addressed in the [Independent Care Review](#) outlined above. When published, the Committee calls on the Scottish Government to respond appropriately to ensure the provision of such services across the secure care estate and remove some of the current problems which see children and young people placed on long waiting lists or, worse, lose their place on such lists simply because they have moved to a different facility.

201. The Committee also agrees that all children and young people held in secure care should be provided with guaranteed access to appropriate and timely provision of educational services.

202. The Committee is concerned by the evidence taken on the potential for social isolation in our secure care homes, particular for young people held on remand. As we state below, whilst this may not be as acute in care units compared to prison, this situation needs to be addressed.

203. Social isolation can be eased by ensuring that a child or young person has regular access to contact with their family and friends, either in person or via Skype, Facetime etc. The Committee recommends that the Scottish Government and local authorities ensure that sufficient sums are available to facilitate regular visits by families and that steps are taken to swiftly remove any technical constraints that hinder online contact where visits are not possible.

204. The Committee welcomes the evidence provided by Scotland Excel, COSLA and the current secure care providers on the current contractual model (localised commissioning) for the provision of secure care. The Committee notes that this model has some advantages, such as the relative ease of administration and procurement for Scotland's local authorities. Nevertheless, the Committee remains unconvinced that this is a viable model beyond the current contractual period (which ends in March 2020). The Committee calls on the Scottish Government and COSLA to look at alternative models, such as national commissioning or the use of block-funding of places. It should never be the case that a child or young person is sent to HMP YOI Polmont when a secure care unit would more appropriate to their needs.

205. The current model - and its reliance on a 90+% occupancy for financial sustainability - places undue pressures on the system and has led some providers on occasion to seek to house children and young people from other parts of the UK to balance the books. This is not necessarily a concern as Scotland's secure care units offer an exceptional service. However, it can cause challenges for the providers of such units as the evidence provided to us shows. As the managers of Scotland Excel told the Committee, this is a "weak model" and we agree.

206. The Committee was also surprised to learn that there is no easily accessible centralised monitoring system for the number of places and referrals in the secure care system. This needs to be addressed.

207. Finally, the Committee has substantial concerns about the transition process for children and young people from secure care into HMP YOI Polmont, and from secure care/prison back into their communities after release.

208. The Committee believes that, unless there is strong evidence to the contrary, no young person under the age of 18 should be placed in HMP YOI Polmont when a place in a secure care unit would be more suitable. Furthermore, the Committee does not believe that current system, which sees the automatic transfer of a young person from care to HMP YOI Polmont, should be based solely on age. It makes no sense to the Committee that a young person is removed from secure care where they may have built successful and supportive relations, to be placed in prison for periods of often only a few months. Any system of transition must be based on vulnerability assessments and not purely based on reaching a specific age. The Committee calls on the Scottish Government to review the current legislative and policy framework regarding transition between secure care and prison with a view to making the relevant changes to the law and current policy.

209. The Committee also has concerns about the provision of information and data sharing during the transitions between secure care and the prison estate, and between care/prison and the community on release. These are covered in more detail below.

Young people in the prison system

210. As stated above, the Committee welcomes the review of mental health services conducted by HMIPS and endorses its high level findings and major recommendations. In particular, the Committee supports the various recommendations relating to mental health training, health care provision and other support services required at HMP YOI Polmont. The Committee calls on HMIPS to keep the delivery of its recommendations under review and requests that the Scottish Government provides the Committee an

update on progress within six months of the publication of this report. The Committee calls in HMIPS to report any concerns it has with delivery to the Committee.

211. **Furthermore, the Committee notes the views of the Chief Inspector of Prisons in Scotland that she was unable, due to time, to conduct a review of whether all determinations, recommendations and findings from FAIs (fatal accident inquiries) and DIPLARs (Death in Prison Learning and Audit Review) conducted into deaths in custody are delivered and lead to substantive change. In this respect, we note the concerns expressed in the evidence from Linda and Stuart Allan (the parents of Katie Allan).**
212. **We call on HMIPS to conduct this outstanding research without delay and for the Scottish Government to provide the necessary resources if these are needed. This could perhaps be undertaken within the newly announced [review](#) of deaths in prisons.**
213. **The Committee is aware that such reviews invariably call for lessons to be learned and we now need evidence that they are being. In this respect, the Committee welcomes the "absolute assurance" from the Chief Executive of the Scottish Prison Service that all recommendations in a sheriff's determination will be followed through.**

214. **The Committee is concerned to hear evidence from HMIPS and its expert researchers that there are uncertainties around the recording of, and collection of data on, the rate of suicides at HMP YOI Polmont. The Committee accepts that there are challenges and that ideas on an appropriate methodology differ. Nonetheless, it is important that this information is available and the Committee calls on the Scottish Government to support further work by HMIPS, the Scottish Prison Service and respected academic bodies to address the lack of an agreed methodology as soon as possible. Given that the rate of suicide by young people in prison is higher than the older prison population, the Committee agrees that more must be done to understand the scale of the problem and why.**

215. **Furthermore, given that the risk of suicide by a young person is higher in the first 3 months of their imprisonment than the rest of their sentence, particular attention to the current problems during transition into and out of prison have to be addressed.**
216. **The Committee fully supports the Cabinet Secretary in his view that "no one going through the justice system should be harmed by the failure of agencies to fully share information with one another where data protection legislation allows it."**

217. **The Committee recommends that all young people entering the prison estate at HMP YOI Polmont from secure care or from elsewhere should**

arrive with a detailed dossier of information on their circumstances, care needs etc. Additionally, such young people should have rapid access to a comprehensive assessment of their needs by suitable trained personnel upon arrival. Similarly, upon their discharge, such information should be provided to relevant organisations such as the NHS, housing providers, social work etc to ensure a smooth transition back into the local community.

218. As such, the Committee welcomes the support from the Scottish Prison Service to lead work to produce a 'consensus agreement' between all relevant bodies on the sharing of information setting out clear details of what can be shared and service level agreements. This should be taken forward without delay and the Scottish Government should provide the SPS with the necessary resources to make this happen.

219. The Committee supports the calls from a range of organisations for better service provision in HMP YOI Polmont in relation to, but not restricted to, speech and language therapy, support for conditions such as ADHD and autism and for a range of support to tackle adverse childhood experiences (ACEs). The Committee agrees that SPS staff cannot be expected to be specialists in all these areas but they should have a basic awareness and, furthermore, such specialist services should be available to the young people held in HMP YOI Polmont if an assessment indicates there is a need.

220. The Committee welcomes the agreement of the Scottish Government to fund a pilot for in-cell telephony at HMP YOI Polmont. We share the view of HMIPS that this can help with social isolation and make a contribution to reducing the rates of suicide and self-harm. The Committee has commented on a number of these matters in a separate report on prisons and prison budgets.

221. Finally, as indicated above in our conclusions on secure care, Scotland still has a problem with the number of prisoners being held on remand. The Committee has previously expressed concerns about this in our recent [inquiry](#). However, in our view, the current setup in prison whereby remand prisoners are under no obligation to socialise and participate in meaningful activities (education, employment training etc.) has the potential to exacerbate for social isolation. This has to be addressed.

222. The Committee notes the comments from the Chief Inspector of Prisons in Scotland and shares her view that data should be collected on the amount of purposeful activity being carried out by prisoners on remand at HMP YOI Polmont so that this can be monitored. We recommend that SPS reviews this matter and collects such data.

223. More widely, the Committee calls on the Scottish Government, the Scottish Prisons Service and HMIPS to review the current legislative, policy and financial framework with a view to making changes to the regime for

remand prisoners, and to set out the details of what will be required and when this can be delivered in a report to the Committee. In this, we welcome the comments from the Cabinet Secretary that he would continue to work to ensure alternatives to remand are available for young people and to support those young people held on remand".

Annex

Minutes of the Committee meetings and extracts from the Official Report for the relevant meetings can be found [online](#).

The Committee also received a number of [written submissions of evidence](#). Submissions were received from:

- Barnardo's Scotland
- Care Inspectorate
- Centre for Youth and Criminal Justice
- Forensic Network
- Glasgow City Health and Social Care Partnership
- Good Shepherd Centre
- Independent Care Review
- Kibble Education and Care Centre
- Rossie Young People's Trust
- St Mary's Kenmure Secure Care Unit
- Royal College of Speech and Language Therapists
- COSLA
- Scotland Excel
- Mental Welfare Commission for Scotland
- Commissioner for Children and Young People in Scotland
- Linda Allan and Stuart Allan

Supplementary written evidence was provided by:

- Scotland Excel - Contract for Secure Care Services Specification
- Scotland Excel – Secure Care Unit Occupancy Rates April-Sept 2019

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